

AMENDED IN ASSEMBLY AUGUST 27, 2014

AMENDED IN ASSEMBLY AUGUST 22, 2014

AMENDED IN ASSEMBLY AUGUST 12, 2014

SENATE BILL

No. 873

Introduced by Committee on Budget and Fiscal Review

January 9, 2014

An act to add Chapter 7 (commencing with Section 155) to Title 1 of Part 1 of the Code of Civil Procedure, to add Section 757 to the Evidence Code, to amend Sections 1546.1, 1546.2, 1569.481, 1569.482, and 1569.682 of the Health and Safety Code, to amend Sections 11461.3, 11462.04, 11477, and 12300.4 of, and to add Chapter 5.6 (commencing with Section 13300) to Part 3 of Division 9 of, the Welfare and Institutions Code, and to amend Section 88 of Chapter 29 of the Statutes of 2014, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 873, as amended, Committee on Budget and Fiscal Review. Human services.

(1) Existing federal law, the Immigration and Nationality Act, establishes a procedure for classification of certain aliens as special immigrants who have been declared dependent on a juvenile court, and authorizes those aliens who have been granted special immigrant juvenile status to apply for an adjustment of status to that of a lawful permanent resident within the United States. Under federal regulations, state juvenile courts are charged with making a preliminary determination of the child's dependency, as specified. Existing federal regulations define juvenile court to mean a court located in the United

States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge a minor to be a dependent or ward of the court. Existing law also establishes the jurisdiction of the probate court. Existing law regulates the establishment and termination of guardianships in probate court, and specifies that a guardian has the care, custody, and control of a ward. Existing law establishes the jurisdiction of the family court, which may make determinations about the custody of children.

This bill would provide that the superior court, including the juvenile, probate, or family court division of the superior court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act. The bill would require the superior court to make an order containing the necessary findings regarding special immigrant juvenile status pursuant to federal law, if there is evidence to support those findings. The bill would require records of these proceedings that are not otherwise protected by state confidentiality laws to remain confidential, and would also authorize the sealing of these records. The bill would require the Judicial Council to adopt any rules and forms needed to implement these provisions.

(2) Existing federal law, Title VI of the federal Civil Rights Act of 1964 and the Safe Streets Act of 1968, prohibit national origin discrimination by recipients of federal assistance.

The California Constitution provides that a person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings. Existing law requires that court interpreters' fees or other compensation be paid by the court in criminal cases, and by the litigants in civil cases, as specified. Existing law requires, in any action or proceeding under specified provisions of the Family Code relating to domestic violence, an interpreter to be provided by the court for a party who does not proficiently speak or understand the English language to interpret the proceedings in a language that the party understands and to assist communication between the party and his or her attorney.

This bill would state that existing law and authority to provide interpreters in civil court includes providing an interpreter for a child in a proceeding in which a petitioner requests an order from the superior court to make the findings regarding special immigrant juvenile status.

(3) Under existing law, the State Department of Social Services regulates the licensure and operation of various types of facilities, including community care facilities and residential care facilities for the elderly.

Existing law authorizes the department to appoint a temporary manager to assume the operation of a community care facility or residential care facility for the elderly for 60 days, subject to extension by the department, when specified circumstances exist. To the extent department funds are used for the costs of the temporary manager or related expenses, existing law requires the department to be reimbursed from the revenues accruing to the facility or to the licensee, and to the extent those revenues are insufficient, requires that the unreimbursed amount constitute a lien upon the asset of the facility or the proceeds from the sale of the facility.

Existing law also authorizes the department to apply for a court order appointing a receiver to temporarily operate a community care facility or a residential care facility for the elderly for no more than 3 months, subject to extension by the department, when certain circumstances exist. To the extent that state funds are used to pay for the salary of the receiver or other related expenses, existing law requires the state be reimbursed from the revenues accruing to the facility or to the licensee or the entity related to the license, and to the extent that those revenues are insufficient, requires the unreimbursed amount constitute a lien on the assets of the facility or the proceeds from the sale of the facility.

This bill would instead provide that if the revenues are insufficient to reimburse the department for the costs of the temporary manager, the salary of the receiver, or related expenses, the unreimbursed amount shall constitute grounds for a monetary judgment in civil court and subsequent lien upon the assets of the facility or the proceeds from the sale thereof. The bill would make other related changes to these provisions. The bill would provide that liens placed against the personal and real property of a licensee for reimbursement of funds relating to the receivership be given judgment creditor priority.

(4) Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds. Existing law specifies the amounts of cash aid to be paid each month to CalWORKs recipients. Existing

law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. Under existing law, a child is eligible for AFDC-FC if he or she is placed in the approved home of a relative and is otherwise eligible for federal financial participation in the AFDC-FC payment, as specified. Existing law, beginning January 1, 2015, establishes the Approved Relative Caregiver Funding Option Program in counties choosing to participate, for the purpose of making the amount paid to relative caregivers for the in-home care of children placed with them who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children who are eligible for AFDC-FC payments.

Existing law requires that the related child placed in the home meet certain requirements in order to be eligible under the Approved Relative Caregiver Funding Option Program and requires that specified funding be used for the program.

This bill would require, for purposes of this program, that the care and placement of the child be the responsibility of the county welfare department or the county probation department. The bill would also, for purposes of funding the program, delete the requirement that the funding of the applicable per-child CalWORKs grant be limited to the federal funds received.

(5) Under existing law, foster care providers licensed as group homes have rates established by classifying each group home program and applying a standardized schedule of rates. Existing law prohibits the establishment of a new group home rate or change to an existing rate under the AFDC-FC program, except for exemptions granted by the department on a case-by-case basis. Existing law also limits, for the 2012–13 and 2013–14 fiscal years, exceptions for any program with a rate classification level below 10 to exceptions associated with a program change.

This bill would extend that limitation to the 2014–15 fiscal year.

(6) Existing law requires each applicant or recipient to assign to the county, as a condition of eligibility for aid paid under CalWORKs, any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, and to cooperate with the county welfare department and local child support

agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained. Existing law exempts from these provisions an assistance unit that excludes any adults pursuant to specified provisions of law, including a provision that makes an individual ineligible for CalWORKs aid if the individual has been convicted in state or federal court for a felony drug conviction, as specified, after December 31, 1997.

This bill would provide that if the income for an assistance unit that excludes any adults as described above includes reasonably anticipated income derived from child support, the amount established in specified provisions of law of any amount of child support received each month shall not be considered income or resources and shall not be deducted from the amount of aid to which the assistance unit otherwise would be eligible.

(7) Existing law establishes the In-Home Supportive Services (IHSS) program, administered by the State Department of Social Services and counties, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law authorizes certain Medi-Cal recipients to receive waiver personal care services, as defined, in order to allow the recipients to remain in their own homes.

Existing law requires that in-home supportive services and waiver personal care services be performed by providers within a workweek that does not exceed 66 hours per week, as reduced by a specified net percentage.

This bill would, if certain conditions are met, deem a provider authorized to work a recipient's county-approved adjusted hours for the week when a recipient's weekly authorized hours are adjusted and at the time of adjustment the recipient currently receives all authorized hours of services from one provider.

Existing law also requires the State Department of Health Care Services, if the provider of authorized waiver personal care services cannot provide authorized in-home supportive services to a recipient

as a result of the above-described workweek limitation, to work with the recipient to engage additional providers, as necessary.

This bill would delete that provision and instead require the State Department of Health Care Services to ~~take all necessary and timely steps, and to timely inform the recipient of the steps that will be taken, to ensure that work with and assist~~ recipients receiving services pursuant to the Nursing Facility/Acute Hospital Waiver ~~or the In-Home Operations Waiver~~ who are at or near ~~the~~ *their* individual cost cap ~~do not lose services and are not forced to alter existing provider relationships to avoid a reduction in the recipient's services that may result because of increased overtime pay for providers, including providers. The bill would require the department, as a part of this effort, to consider allowing the recipient to exceed the individual cost cap. The bill would require the department to provide timely information to waiver recipients regarding the steps that will be taken to implement this provision.~~

(8) Existing federal law, the Homeland Security Act of 2002, empowers the Director of the Office of Refugee Resettlement of the federal Department of Health and Human Services with functions under the immigration laws of the United States with respect to the care of unaccompanied alien children, as defined, including, but not limited to, coordinating and implementing the care and placement of unaccompanied alien children who are in federal custody by reason of their immigration status, including developing a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each child, as provided. Existing law designates the State Department of Social Services as the single agency with full power to supervise every phase of the administration of public social services, except health care services and medical assistance.

This bill would require the State Department of Social Services, subject to the availability of funding, to contract with qualified nonprofit legal services organizations to provide legal services to unaccompanied undocumented minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in this state. The bill would require that the contracts awarded meet certain conditions.

(9) Existing law authorizes the State Department of Social Services to implement specified provisions of Chapter 29 of the Statutes of 2014 through all-county letters or similar instructions and requires the

department to adopt emergency regulations implementing these provisions no later than January 1, 2016.

This bill would extend that authorization for all-county letters and similar instructions to additional provisions of Chapter 29 of the Statutes of 2014 that relate to the CalFresh program.

(10) This bill would provide that its provisions are severable.

(11) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(12) This bill would incorporate additional changes to Section 1569.682 of the Health and Safety Code made by this bill and AB 1899, to take effect if both bills are chaptered and this bill is chaptered last.

(13) Item 5180-151-0001 of Section 2.00 of the Budget Act of 2014 appropriated \$1,435,400,000 to the State Department of Social Services for local assistance for children and adult services, which includes, among other things, increased costs associated with cases of child abuse and neglect and revised federal requirements for child welfare case reviews, and funds for the Commercially Sexually Exploited Children Program. Item 5180-153-0001 of Section 2.00 of the Budget Act of 2014 also appropriated \$1,901,000 to the State Department of Social Services for local assistance for increased costs associated with revised county collection and reporting activities for cases of child abuse and neglect and revised federal requirements for child welfare case reviews.

This bill would revise these items by increasing the appropriation in Item 5180-151-0001 by \$1,686,000 for the Commercially Sexually Exploited Children Program, and by reducing the appropriation in Item 5180-153-0001 by \$1,686,000.

(14) This bill would provide that the continuous appropriation applicable to CalWORKs is not made for purposes of implementing the bill.

(15) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 7 (commencing with Section 155) is added to Title 1 of Part 1 of the Code of Civil Procedure, to read:

CHAPTER 7. SPECIAL IMMIGRANT JUVENILE FINDINGS

155. (a) A superior court has jurisdiction under California law to make judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11), which includes, but is not limited to, the juvenile, probate, and family court divisions of the superior court. These courts may make the findings necessary to enable a child to petition the United States Citizenship and Immigration Service for classification as a special immigrant juvenile pursuant to Section 1101 (a)(27)(J) of Title 8 of the United States Code.

(b) (1) If an order is requested from the superior court making the necessary findings regarding special immigrant juvenile status pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code, and there is evidence to support those findings, which may consist of, but is not limited to, a declaration by the child who is the subject of the petition, the court shall issue the order, which shall include all of the following findings:

(A) The child was either of the following:

(i) Declared a dependent of the court.

(ii) Legally committed to, or placed under the custody of, a state agency or department, or an individual or entity appointed by the court. The court shall indicate the date on which the dependency, commitment, or custody was ordered.

(B) That reunification of the child with one or both of the child's parents was determined not to be viable because of abuse, neglect, abandonment, or a similar basis pursuant to California law. The court shall indicate the date on which reunification was determined not to be viable.

(C) That it is not in the best interest of the child to be returned to the child's, or his or her parent's, previous country of nationality or country of last habitual residence.

(2) If requested by a party, the court may make additional findings that are supported by evidence.

1 (c) In any judicial proceedings in response to a request that the
2 superior court make the findings necessary to support a petition
3 for classification as a special immigrant juvenile, information
4 regarding the child's immigration status that is not otherwise
5 protected by state confidentiality laws shall remain confidential
6 and shall be available for inspection only by the court, the child
7 who is the subject of the proceeding, the parties, the attorneys for
8 the parties, the child's counsel, and the child's guardian.

9 (d) In any judicial proceedings in response to a request that the
10 superior court make the findings necessary to support a petition
11 for classification as a special immigrant juvenile, records of the
12 proceedings that are not otherwise protected by state confidentiality
13 laws may be sealed using the procedure set forth in California
14 Rules of Court 2.550 and 2.551.

15 (e) The Judicial Council shall adopt any rules and forms needed
16 to implement this section.

17 SEC. 2. Section 757 is added to the Evidence Code, to read:

18 757. Pursuant to this chapter, other applicable law, and existing
19 Judicial Council policy, including the policy adopted on January
20 23, 2014, existing authority to provide interpreters in civil court
21 includes the authority to provide an interpreter in a proceeding in
22 which a petitioner requests an order from the superior court to
23 make the findings regarding special immigrant juvenile status
24 pursuant to Section 1101(a)(27)(J) of Title 8 of the United States
25 Code.

26 SEC. 3. Section 1546.1 of the Health and Safety Code, as added
27 by Section 11 of Chapter 29 of the Statutes of 2014, is amended
28 to read:

29 1546.1. (a) (1) It is the intent of the Legislature in enacting
30 this section to authorize the department to take quick, effective
31 action to protect the health and safety of clients of community care
32 facilities and to minimize the effects of transfer trauma that
33 accompany the abrupt transfer of clients by appointing a temporary
34 manager to assume the operation of a facility that is found to be
35 in a condition in which continued operation by the licensee or his
36 or her representative presents a substantial probability of imminent
37 danger of serious physical harm or death to the clients.

38 (2) A temporary manager appointed pursuant to this section
39 shall assume the operation of the facility in order to bring it into
40 compliance with the law, facilitate a transfer of ownership to a

1 new licensee, or ensure the orderly transfer of clients should the
2 facility be required to close. Upon a final decision and order of
3 revocation of the license or a forfeiture by operation of law, the
4 department shall immediately issue a provisional license to the
5 appointed temporary manager. Notwithstanding the applicable
6 sections of this code governing the revocation of a provisional
7 license, the provisional license issued to a temporary manager shall
8 automatically expire upon the termination of the temporary
9 manager. The temporary manager shall possess the provisional
10 license solely for purposes of carrying out the responsibilities
11 authorized by this section and the duties set forth in the written
12 agreement between the department and the temporary manager.
13 The temporary manager shall have no right to appeal the expiration
14 of the provisional license.

15 (b) For purposes of this section, “temporary manager” means
16 the person, corporation, or other entity appointed temporarily by
17 the department as a substitute facility licensee or administrator
18 with authority to hire, terminate, reassign staff, obligate facility
19 funds, alter facility procedures, and manage the facility to correct
20 deficiencies identified in the facility’s operation. The temporary
21 manager shall have the final authority to direct the care and
22 supervision activities of any person associated with the facility,
23 including superseding the authority of the licensee and the
24 administrator.

25 (c) The director may appoint a temporary manager when it is
26 determined that it is necessary to temporarily suspend any license
27 of a community care facility pursuant to Section 1550.5 and any
28 of the following circumstances exist:

29 (1) The immediate relocation of the clients is not feasible based
30 on transfer trauma, lack of alternate placements, or other emergency
31 considerations for the health and safety of the clients.

32 (2) The licensee is unwilling or unable to comply with the
33 requirements of Section 1556 for the safe and orderly relocation
34 of clients when ordered to do so by the department.

35 (d) (1) Upon appointment, the temporary manager shall
36 complete its application for a license to operate a community care
37 facility and take all necessary steps and make best efforts to
38 eliminate any substantial threat to the health and safety to clients
39 or complete the transfer of clients to alternative placements
40 pursuant to Section 1556. For purposes of a provisional license

1 issued to a temporary manager, the licensee's existing fire safety
2 clearance shall serve as the fire safety clearance for the temporary
3 manager's provisional license.

4 (2) A person shall not impede the operation of a temporary
5 manager. The temporary manager's access to, or possession of,
6 the property shall not be interfered with during the term of the
7 temporary manager appointment. There shall be an automatic stay
8 for a 60-day period subsequent to the appointment of a temporary
9 manager of any action that would interfere with the functioning
10 of the facility, including, but not limited to, termination of utility
11 services, attachments or set-offs of client trust funds, and
12 repossession of equipment in the facility.

13 (e) (1) The appointment of a temporary manager shall be
14 immediately effective and shall continue for a period not to exceed
15 60 days unless otherwise extended in accordance with paragraph
16 (2) of subdivision (h) at the discretion of the department or
17 otherwise terminated earlier by any of the following events:

18 (A) The temporary manager notifies the department, and the
19 department verifies, that the facility meets state and, if applicable,
20 federal standards for operation, and will be able to continue to
21 maintain compliance with those standards after the termination of
22 the appointment of the temporary manager.

23 (B) The department approves a new temporary manager.

24 (C) A new operator is licensed.

25 (D) The department closes the facility.

26 (E) A hearing or court order ends the temporary manager
27 appointment, including the appointment of a receiver under Section
28 1546.2.

29 (F) The appointment is terminated by the department or the
30 temporary manager.

31 (2) The appointment of a temporary manager shall authorize
32 the temporary manager to act pursuant to this section. The
33 appointment shall be made pursuant to a written agreement between
34 the temporary manager and the department that outlines the
35 circumstances under which the temporary manager may expend
36 funds. The department shall provide the licensee and administrator
37 with a copy of the accusation to appoint a temporary manager at
38 the time of appointment. The accusation shall notify the licensee
39 of the licensee's right to petition the Office of Administrative
40 Hearings for a hearing to contest the appointment of the temporary

1 manager as described in subdivision (f) and shall provide the
2 licensee with a form and appropriate information for the licensee's
3 use in requesting a hearing.

4 (3) The director may rescind the appointment of a temporary
5 manager and appoint a new temporary manager at any time that
6 the director determines the temporary manager is not adhering to
7 the conditions of the appointment.

8 (f) (1) The licensee of a community care facility may contest
9 the appointment of the temporary manager by filing a petition for
10 an order to terminate the appointment of the temporary manager
11 with the Office of Administrative Hearings within 15 days from
12 the date of mailing of the accusation to appoint a temporary
13 manager under subdivision (e). On the same day as the petition is
14 filed with the Office of Administrative Hearings, the licensee shall
15 serve a copy of the petition to the office of the director.

16 (2) Upon receipt of a petition under paragraph (1), the Office
17 of Administrative Hearings shall set a hearing date and time within
18 10 business days of the receipt of the petition. The office shall
19 promptly notify the licensee and the department of the date, time,
20 and place of the hearing. The office shall assign the case to an
21 administrative law judge. At the hearing, relevant evidence may
22 be presented pursuant to Section 11513 of the Government Code.
23 The administrative law judge shall issue a written decision on the
24 petition within 10 business days of the conclusion of the hearing.
25 The 10-day time period for holding the hearing and for rendering
26 a decision may be extended by the written agreement of the parties.

27 (3) The administrative law judge shall uphold the appointment
28 of the temporary manager if the department proves, by a
29 preponderance of the evidence, that the circumstances specified
30 in subdivision (c) applied to the facility at the time of the
31 appointment. The administrative law judge shall order the
32 termination of the temporary manager if the burden of proof is not
33 satisfied.

34 (4) The decision of the administrative law judge is subject to
35 judicial review as provided in Section 1094.5 of the Code of Civil
36 Procedure by the superior court of the county where the facility is
37 located. This review may be requested by the licensee of the facility
38 or the department by filing a petition seeking relief from the order.
39 The petition may also request the issuance of temporary injunctive
40 relief pending the decision on the petition. The superior court shall

1 hold a hearing within 10 business days of the filing of the petition
2 and shall issue a decision on the petition within 10 days of the
3 hearing. The department may be represented by legal counsel
4 within the department for purposes of court proceedings authorized
5 under this section.

6 (g) If the licensee of the community care facility does not protest
7 the appointment or does not prevail at either the administrative
8 hearing under paragraph (2) of subdivision (f) or the superior court
9 hearing under paragraph (4) of subdivision (f), the temporary
10 manager shall continue in accordance with subdivision (e).

11 (h) (1) If the licensee of the community care facility petitions
12 the Office of Administrative Hearings pursuant to subdivision (f),
13 the appointment of the temporary manager by the director pursuant
14 to this section shall continue until it is terminated by the
15 administrative law judge or by the superior court, or it shall
16 continue until the conditions of subdivision (e) are satisfied,
17 whichever is earlier.

18 (2) At any time during the appointment of the temporary
19 manager, the director may request an extension of the appointment
20 by filing a petition for hearing with the Office of Administrative
21 Hearings and serving a copy of the petition on the licensee. The
22 office shall proceed as specified in paragraph (2) of subdivision
23 (f). The administrative law judge may extend the appointment of
24 the temporary manager an additional 60 days upon a showing by
25 the department that the conditions specified in subdivision (c)
26 continue to exist.

27 (3) The licensee or the department may request review of the
28 administrative law judge's decision on the extension as provided
29 in paragraph (4) of subdivision (f).

30 (i) The temporary manager appointed pursuant to this section
31 shall meet the following qualifications:

32 (1) Be qualified to oversee correction of deficiencies on the
33 basis of experience and education.

34 (2) Not be the subject of any pending actions by the department
35 or any other state agency nor have ever been excluded from a
36 department licensed facility or had a license or certification
37 suspended or revoked by an administrative action by the
38 department or any other state agency.

1 (3) Have no financial ownership interest in the facility and have
2 no member of his or her immediate family who has a financial
3 ownership interest in the facility.

4 (4) Not currently serve, or within the past two years have served,
5 as a member of the staff of the facility.

6 (j) Payment of the costs of the temporary manager shall comply
7 with the following requirements:

8 (1) Upon agreement with the licensee, the costs of the temporary
9 manager and any other expenses in connection with the temporary
10 management shall be paid directly by the facility while the
11 temporary manager is assigned to that facility. Failure of the
12 licensee to agree to the payment of those costs may result in the
13 payment of the costs by the department and subsequent required
14 reimbursement of the department by the licensee pursuant to this
15 section.

16 (2) Direct costs of the temporary manager shall be equivalent
17 to the sum of the following:

18 (A) The prevailing fee paid by licensees for positions of the
19 same type in the facility's geographic area.

20 (B) Additional costs that reasonably would have been incurred
21 by the licensee if the licensee and the temporary manager had been
22 in an employment relationship.

23 (C) Any other reasonable costs incurred by the temporary
24 manager in furnishing services pursuant to this section.

25 (3) May exceed the amount specified in paragraph (2) if the
26 department is otherwise unable to attract a qualified temporary
27 manager.

28 (k) (1) The responsibilities of the temporary manager may
29 include, but are not limited to, the following:

30 (A) Paying wages to staff. The temporary manager shall have
31 the full power to hire, direct, manage, and discharge employees
32 of the facility, subject to any contractual rights they may have.
33 The temporary manager shall pay employees at the same rate of
34 compensation, including benefits, that the employees would have
35 received from the licensee or wages necessary to provide adequate
36 staff for the protection of clients and compliance with the law.

37 (B) Preserving client funds. The temporary manager shall be
38 entitled to, and shall take possession of, all property or assets of
39 clients that are in the possession of the licensee or administrator
40 of the facility. The temporary manager shall preserve all property,

1 assets, and records of clients of which the temporary manager takes
2 possession.

3 (C) Contracting for outside services as may be needed for the
4 operation of the facility. Any contract for outside services in excess
5 of five thousand dollars (\$5,000) shall be approved by the director.

6 (D) Paying commercial creditors of the facility to the extent
7 required to operate the facility. The temporary manager shall honor
8 all leases, mortgages, and secured transactions affecting the
9 building in which the facility is located and all goods and fixtures
10 in the building, but only to the extent of payments that, in the case
11 of a rental agreement, are for the use of the property during the
12 period of the temporary management, or that, in the case of a
13 purchase agreement, come due during the period of the temporary
14 management.

15 (E) Doing all things necessary and proper to maintain and
16 operate the facility in accordance with sound fiscal policies. The
17 temporary manager shall take action as is reasonably necessary to
18 protect or conserve the assets or property of which the temporary
19 manager takes possession and may use those assets or property
20 only in the performance of the powers and duties set out in this
21 section.

22 (2) Expenditures by the temporary manager in excess of five
23 thousand dollars (\$5,000) shall be approved by the director. Total
24 encumbrances and expenditures by the temporary manager for the
25 duration of the temporary management shall not exceed the sum
26 of forty-nine thousand nine hundred ninety-nine dollars (\$49,999)
27 unless approved by the director in writing.

28 (3) The temporary manager shall make no capital improvements
29 to the facility in excess of five thousand dollars (\$5,000) without
30 the approval of the director.

31 (l) (1) To the extent department funds are advanced for the
32 costs of the temporary manager or for other expenses in connection
33 with the temporary management, the department shall be
34 reimbursed from the revenues accruing to the facility or to the
35 licensee or an entity related to the licensee. Any reimbursement
36 received by the department shall be redeposited in the account
37 from which the department funds were advanced. If the revenues
38 are insufficient to reimburse the department, the unreimbursed
39 amount shall constitute grounds for a monetary judgment in civil
40 court and a subsequent lien upon the assets of the facility or the

proceeds from the sale thereof. Pursuant to Chapter 2 (commencing with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, a lien against the personal assets of the facility or an entity related to the licensee based on the monetary judgment obtained shall be filed with the Secretary of State on the forms required for a notice of judgment lien. A lien against the real property of the facility or an entity related to the licensee based on the monetary judgment obtained shall be recorded with the county recorder of the county where the facility of the licensee is located or where the real property of the entity related to the licensee is located. The lien shall not attach to the interests of a lessor, unless the lessor is operating the facility. The authority to place a lien against the personal and real property of the licensee for the reimbursement of any state funds expended pursuant to this section shall be given judgment creditor priority.

(2) For purposes of this section, “entity related to the licensee” means an entity, other than a natural person, of which the licensee is a subsidiary or an entity in which a person who was obligated to disclose information under Section 1520 possesses an interest that would also require disclosure pursuant to Section 1520.

(m) Appointment of a temporary manager under this section does not relieve the licensee of any responsibility for the care and supervision of clients under this chapter. The licensee, even if the license is deemed surrendered or the facility abandoned, shall be required to reimburse the department for all costs associated with operation of the facility during the period the temporary manager is in place that are not accounted for by using facility revenues or for the relocation of clients handled by the department if the licensee fails to comply with the relocation requirements of Section 1556 when required by the department to do so. If the licensee fails to reimburse the department under this section, then the department, along with using its own remedies available under this chapter, may request that the Attorney General’s office, the city attorney’s office, or the local district attorney’s office seek any available criminal, civil, or administrative remedy, including, but not limited to, injunctive relief, restitution, and damages in the same manner as provided for in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(n) The department may use funds from the emergency client contingency account pursuant to Section 1546 when needed to supplement the operation of the facility or the transfer of clients under the control of the temporary manager appointed under this section if facility revenues are unavailable or exhausted when needed. Pursuant to subdivision (l), the licensee shall be required to reimburse the department for any funds used from the emergency client contingency account during the period of control of the temporary manager and any incurred costs of collection.

(o) This section does not apply to a residential facility that serves six or fewer persons and is also the principal residence of the licensee.

(p) Notwithstanding any other provision of law, the temporary manager shall be liable only for damages resulting from gross negligence in the operation of the facility or intentional tortious acts.

(q) All governmental immunities otherwise applicable to the state shall also apply to the state in the use of a temporary manager in the operation of a facility pursuant to this section.

(r) A licensee shall not be liable for any occurrences during the temporary management under this section except to the extent that the occurrences are the result of the licensee's conduct.

(s) The department may adopt regulations for the administration of this section.

SEC. 4. Section 1546.2 of the Health and Safety Code, as added by Section 12 of Chapter 29 of the Statutes of 2014, is amended to read:

1546.2. (a) It is the intent of the Legislature in enacting this section to authorize the department to take quick, effective action to protect the health and safety of residents of community care facilities and to minimize the effects of transfer trauma that accompany the abrupt transfer of clients through a system whereby the department may apply for a court order appointing a receiver to temporarily operate a community care facility. The receivership is not intended to punish a licensee or to replace attempts to secure cooperative action to protect the clients' health and safety. The receivership is intended to protect the clients in the absence of other reasonably available alternatives. The receiver shall assume the operation of the facility in order to bring it into compliance with law, facilitate a transfer of ownership to a new licensee, or

1 ensure the orderly transfer of clients should the facility be required
2 to close.

3 (b) (1) Whenever circumstances exist indicating that continued
4 management of a community care facility by the current licensee
5 would present a substantial probability or imminent danger of
6 serious physical harm or death to the clients, or the facility is
7 closing or intends to terminate operation as a community care
8 facility and adequate arrangements for relocation of clients have
9 not been made at least 30 days prior to the closing or termination,
10 the director may petition the superior court for the county in which
11 the community care facility is located for an order appointing a
12 receiver to temporarily operate the community care facility in
13 accordance with this section.

14 (2) The petition shall allege the facts upon which the action is
15 based and shall be supported by an affidavit of the director. A copy
16 of the petition and affidavits, together with an order to appear and
17 show cause why temporary authority to operate the community
18 care facility should not be vested in a receiver pursuant to this
19 section, shall be delivered to the licensee, administrator, or a
20 responsible person at the facility to the attention of the licensee
21 and administrator. The order shall specify a hearing date, which
22 shall be not less than 10, nor more than 15, days following delivery
23 of the petition and order upon the licensee, except that the court
24 may shorten or lengthen the time upon a showing of just cause.

25 (c) (1) If the director files a petition pursuant to subdivision (b)
26 for appointment of a receiver to operate a community care facility,
27 in accordance with Section 564 of the Code of Civil Procedure,
28 the director may also petition the court, in accordance with Section
29 527 of the Code of Civil Procedure, for an order appointing a
30 temporary receiver. A temporary receiver appointed by the court
31 pursuant to this subdivision shall serve until the court has made a
32 final determination on the petition for appointment of a receiver
33 filed pursuant to subdivision (b). A receiver appointed pursuant
34 to this subdivision shall have the same powers and duties as a
35 receiver would have if appointed pursuant to subdivision (b). Upon
36 the director filing a petition for a receiver, the receiver shall
37 complete its application for a provisional license to operate a
38 community care facility. For purposes of a provisional license
39 issued to a receiver, the licensee's existing fire safety clearance

1 shall serve as the fire safety clearance for the receiver's provisional
2 license.

3 (2) At the time of the hearing, the department shall advise the
4 licensee of the name of the proposed receiver. The receiver shall
5 be a certified community care facility administrator or other
6 responsible person or entity, as determined by the court, from a
7 list of qualified receivers established by the department, and, if
8 need be, with input from providers of residential care and consumer
9 representatives. Persons appearing on the list shall have experience
10 in the delivery of care services to clients of community care
11 facilities, and, if feasible, shall have experience with the operation
12 of a community care facility, shall not be the subject of any pending
13 actions by the department or any other state agency, and shall not
14 have ever been excluded from a department licensed facility nor
15 have had a license or certification suspended or revoked by an
16 administrative action by the department or any other state agency.
17 The receivers shall have sufficient background and experience in
18 management and finances to ensure compliance with orders issued
19 by the court. The owner, licensee, or administrator shall not be
20 appointed as the receiver unless authorized by the court.

21 (3) If at the conclusion of the hearing, which may include oral
22 testimony and cross-examination at the option of any party, the
23 court determines that adequate grounds exist for the appointment
24 of a receiver and that there is no other reasonably available remedy
25 to protect the clients, the court may issue an order appointing a
26 receiver to temporarily operate the community care facility and
27 enjoining the licensee from interfering with the receiver in the
28 conduct of his or her duties. In these proceedings, the court shall
29 make written findings of fact and conclusions of law and shall
30 require an appropriate bond to be filed by the receiver and paid
31 for by the licensee. The bond shall be in an amount necessary to
32 protect the licensee in the event of any failure on the part of the
33 receiver to act in a reasonable manner. The bond requirement may
34 be waived by the licensee.

35 (4) The court may permit the licensee to participate in the
36 continued operation of the facility during the pendency of any
37 receivership ordered pursuant to this section and shall issue an
38 order detailing the nature and scope of participation.

1 (5) Failure of the licensee to appear at the hearing on the petition
2 shall constitute an admission of all factual allegations contained
3 in the petition for purposes of these proceedings only.

4 (6) The licensee shall receive notice and a copy of the
5 application each time the receiver applies to the court or the
6 department for instructions regarding his or her duties under this
7 section, when an accounting pursuant to subdivision (i) is
8 submitted, and when any other report otherwise required under
9 this section is submitted. The licensee shall have an opportunity
10 to present objections or otherwise participate in those proceedings.

11 (d) A person shall not impede the operation of a receivership
12 created under this section. The receiver's access to, or possession
13 of, the property shall not be interfered with during the term of the
14 receivership. There shall be an automatic stay for a 60-day period
15 subsequent to the appointment of a receiver of any action that
16 would interfere with the functioning of the facility, including, but
17 not limited to, cancellation of insurance policies executed by the
18 licensees, termination of utility services, attachments or setoffs of
19 client trust funds and working capital accounts, and repossession
20 of equipment in the facility.

21 (e) When a receiver is appointed, the licensee may, at the
22 discretion of the court, be divested of possession and control of
23 the facility in favor of the receiver. If the court divests the licensee
24 of possession and control of the facility in favor of the receiver,
25 the department shall immediately issue a provisional license to the
26 receiver. Notwithstanding the applicable sections of this code
27 governing the revocation of a provisional license, the provisional
28 license issued to a receiver shall automatically expire upon the
29 termination of the receivership. The receiver shall possess the
30 provisional license solely for purposes of carrying out the
31 responsibilities authorized by this section and the duties ordered
32 by the court. The receiver shall have no right to appeal the
33 expiration of the provisional license.

34 (f) A receiver appointed pursuant to this section:

35 (1) May exercise those powers and shall perform those duties
36 ordered by the court, in addition to other duties provided by statute.

37 (2) Shall operate the facility in a manner that ensures the safety
38 and adequate care for the clients.

39 (3) Shall have the same rights to possession of the building in
40 which the facility is located, and of all goods and fixtures in the

1 building at the time the petition for receivership is filed, as the
2 licensee and administrator would have had if the receiver had not
3 been appointed.

4 (4) May use the funds, building, fixtures, furnishings, and any
5 accompanying consumable goods in the provision of care and
6 services to clients and to any other persons receiving services from
7 the facility at the time the petition for receivership was filed.

8 (5) Shall take title to all revenue coming to the facility in the
9 name of the receiver who shall use it for the following purposes
10 in descending order of priority:

11 (A) To pay wages to staff. The receiver shall have full power
12 to hire, direct, manage, and discharge employees of the facility,
13 subject to any contractual rights they may have. The receiver shall
14 pay employees at the same rate of compensation, including
15 benefits, that the employees would have received from the licensee
16 or wages necessary to provide adequate staff for the protection of
17 the clients and compliance with the law.

18 (B) To preserve client funds. The receiver shall be entitled to,
19 and shall take, possession of all property or assets of clients that
20 are in the possession of the licensee or operator of the facility. The
21 receiver shall preserve all property, assets, and records of clients
22 of which the receiver takes possession.

23 (C) To contract for outside services as may be needed for the
24 operation of the community care facility. Any contract for outside
25 services in excess of five thousand dollars (\$5,000) shall be
26 approved by the court.

27 (D) To pay commercial creditors of the facility to the extent
28 required to operate the facility. Except as provided in subdivision
29 (h), the receiver shall honor all leases, mortgages, and secured
30 transactions affecting the building in which the facility is located
31 and all goods and fixtures in the building of which the receiver
32 has taken possession, but only to the extent of payments which,
33 in the case of a rental agreement, are for the use of the property
34 during the period of receivership, or which, in the case of a
35 purchase agreement, come due during the period of receivership.

36 (E) To receive a salary, as approved by the court.

37 (F) To do all things necessary and proper to maintain and operate
38 the facility in accordance with sound fiscal policies. The receiver
39 shall take action as is reasonably necessary to protect or conserve
40 the assets or property of which the receiver takes possession and

1 may use those assets or property only in the performance of the
2 powers and duties set out in this section and by order of the court.

3 (G) To ask the court for direction in the treatment of debts
4 incurred prior to the appointment, if the licensee's debts appear
5 extraordinary, of questionable validity, or unrelated to the normal
6 and expected maintenance and operation of the facility, or if
7 payment of the debts will interfere with the purposes of
8 receivership.

9 (g) (1) A person who is served with notice of an order of the
10 court appointing a receiver and of the receiver's name and address
11 shall be liable to pay the receiver, rather than the licensee, for any
12 goods or services provided by the community care facility after
13 the date of the order. The receiver shall give a receipt for each
14 payment and shall keep a copy of each receipt on file. The receiver
15 shall deposit amounts received in a special account and shall use
16 this account for all disbursements. Payment to the receiver pursuant
17 to this subdivision shall discharge the obligation to the extent of
18 the payment and shall not thereafter be the basis of a claim by the
19 licensee or any other person. A client shall not be evicted nor may
20 any contract or rights be forfeited or impaired, nor may any
21 forfeiture be effected or liability increased, by reason of an
22 omission to pay the licensee, operator, or other person a sum paid
23 to the receiver pursuant to this subdivision.

24 (2) This section shall not be construed to suspend, during the
25 temporary management by the receiver, any obligation of the
26 licensee for payment of local, state, or federal taxes. A licensee
27 shall not be held liable for acts or omissions of the receiver during
28 the term of the temporary management.

29 (3) Upon petition of the receiver, the court may order immediate
30 payment to the receiver for past services that have been rendered
31 and billed, and the court may also order a sum not to exceed one
32 month's advance payment to the receiver of any sums that may
33 become payable under the Medi-Cal program.

34 (h) (1) A receiver shall not be required to honor a lease,
35 mortgage, or secured transaction entered into by the licensee of
36 the facility and another party if the court finds that the agreement
37 between the parties was entered into for a collusive, fraudulent
38 purpose or that the agreement is unrelated to the operation of the
39 facility.

1 (2) A lease, mortgage, or secured transaction or an agreement
2 unrelated to the operation of the facility that the receiver is
3 permitted to dishonor pursuant to this subdivision shall only be
4 subject to nonpayment by the receiver for the duration of the
5 receivership, and the dishonoring of the lease, mortgage, security
6 interest, or other agreement, to this extent, by the receiver shall
7 not relieve the owner or operator of the facility from any liability
8 for the full amount due under the lease, mortgage, security interest,
9 or other agreement.

10 (3) If the receiver is in possession of real estate or goods subject
11 to a lease, mortgage, or security interest that the receiver is
12 permitted to avoid pursuant to paragraph (1), and if the real estate
13 or goods are necessary for the continued operation of the facility,
14 the receiver may apply to the court to set a reasonable rent, price,
15 or rate of interest to be paid by the receiver during the duration of
16 the receivership. The court shall hold a hearing on this application
17 within 15 days. The receiver shall send notice of the application
18 to any known owner of the property involved at least 10 days prior
19 to the hearing.

20 (4) Payment by the receiver of the amount determined by the
21 court to be reasonable is a defense to any action against the receiver
22 for payment or possession of the goods or real estate, subject to
23 the lease or mortgage, which is brought by any person who received
24 the notice required by this subdivision. However, payment by the
25 receiver of the amount determined by the court to be reasonable
26 shall not relieve the owner or operator of the facility from any
27 liability for the difference between the amount paid by the receiver
28 and the amount due under the original lease, mortgage, or security
29 interest.

30 (i) A monthly accounting shall be made by the receiver to the
31 department of all moneys received and expended by the receiver
32 on or before the 15th day of the following month or as ordered by
33 the court, and the remainder of income over expenses for that
34 month shall be returned to the licensee. A copy of the accounting
35 shall be provided to the licensee. The licensee or owner of the
36 community care facility may petition the court for a determination
37 as to the reasonableness of any expenditure made pursuant to
38 paragraph (5) of subdivision (f).

39 (j) (1) The receiver shall be appointed for an initial period of
40 not more than three months. The initial three-month period may

1 be extended for additional periods not exceeding three months, as
2 determined by the court pursuant to this section. At the end of one
3 month, the receiver shall report to the court on its assessment of
4 the probability that the community care facility will meet state
5 standards for operation by the end of the initial three-month period
6 and will continue to maintain compliance with those standards
7 after termination of the receiver's management. If it appears that
8 the facility cannot be brought into compliance with state standards
9 within the initial three-month period, the court shall take
10 appropriate action as follows:

11 (A) Extend the receiver's management for an additional three
12 months if there is a substantial likelihood that the facility will meet
13 state standards within that period and will maintain compliance
14 with the standards after termination of the receiver's management.
15 The receiver shall report to the court in writing upon the facility's
16 progress at the end of six weeks of any extension ordered pursuant
17 to this paragraph.

18 (B) Order the director to revoke or temporarily suspend, or both,
19 the license pursuant to Article 5 (commencing with Section 1550)
20 and extend the receiver's management for the period necessary to
21 transfer clients in accordance with the transfer plan, but for not
22 more than three months from the date of initial appointment of a
23 receiver, or 14 days, whichever is greater. An extension of an
24 additional three months may be granted if deemed necessary by
25 the court.

26 (2) If it appears at the end of six weeks of an extension ordered
27 pursuant to subparagraph (A) of paragraph (1) that the facility
28 cannot be brought into compliance with state standards for
29 operation or that it will not maintain compliance with those
30 standards after the receiver's management is terminated, the court
31 shall take appropriate action as specified in subparagraph (B) of
32 paragraph (1).

33 (3) In evaluating the probability that a community care facility
34 will maintain compliance with state standards of operation after
35 the termination of receiver management ordered by the court, the
36 court shall consider at least the following factors:

37 (A) The duration, frequency, and severity of past violations in
38 the facility.

39 (B) History of compliance in other care facilities operated by
40 the proposed licensee.

1 (C) Efforts by the licensee to prevent and correct past violations.

2 (D) The financial ability of the licensee to operate in compliance
3 with state standards.

4 (E) The recommendations and reports of the receiver.

5 (4) Management of a community care facility operated by a
6 receiver pursuant to this section shall not be returned to the
7 licensee, to any person related to the licensee, or to any person
8 who served as a member of the facility's staff or who was
9 employed by the licensee prior to the appointment of the receiver
10 unless both of the following conditions are met:

11 (A) The department believes that it would be in the best interests
12 of the clients of the facility, requests that the court return the
13 operation of the facility to the former licensee, and provides clear
14 and convincing evidence to the court that it is in the best interests
15 of the facility's clients to take that action.

16 (B) The court finds that the licensee has fully cooperated with
17 the department in the appointment and ongoing activities of a
18 receiver appointed pursuant to this section, and, if applicable, any
19 temporary manager appointed pursuant to Section 1546.1.

20 (5) The owner of the facility may at any time sell, lease, or close
21 the facility, subject to the following provisions:

22 (A) If the owner closes the facility, or the sale or lease results
23 in the closure of the facility, the court shall determine if a transfer
24 plan is necessary. If the court so determines, the court shall adopt
25 and implement a transfer plan consistent with the provisions of
26 Section 1556.

27 (B) If the licensee proposes to sell or lease the facility and the
28 facility will continue to operate as a community care facility, the
29 court and the department shall reevaluate any proposed transfer
30 plan. If the court and the department determine that the sale or
31 lease of the facility will result in compliance with licensing
32 standards, the transfer plan and the receivership shall, subject to
33 those conditions that the court may impose and enforce, be
34 terminated upon the effective date of the sale or lease.

35 (k) (1) The salary of the receiver shall be set by the court
36 commensurate with community care facility industry standards,
37 giving due consideration to the difficulty of the duties undertaken,
38 and shall be paid from the revenue coming to the facility. If the
39 revenue is insufficient to pay the salary in addition to other
40 expenses of operating the facility, the receiver's salary shall be

1 paid from the emergency client contingency account as provided
2 in Section 1546. State advances of funds in excess of five thousand
3 dollars (\$5,000) shall be approved by the director. Total advances
4 for encumbrances and expenditures shall not exceed the sum of
5 forty-nine thousand nine hundred ninety-nine dollars (\$49,999)
6 unless approved by the director in writing.

7 (2) To the extent state funds are advanced for the salary of the
8 receiver or for other expenses in connection with the receivership,
9 as limited by subdivision (g), the state shall be reimbursed from
10 the revenues accruing to the facility or to the licensee or an entity
11 related to the licensee. Any reimbursement received by the state
12 shall be redeposited in the account from which the state funds were
13 advanced. If the revenues are insufficient to reimburse the state,
14 the unreimbursed amount shall constitute grounds for a monetary
15 judgment in civil court and a subsequent lien upon the assets of
16 the facility or the proceeds from the sale thereof. Pursuant to
17 Chapter 2 (commencing with Section 697.510) of Division 2 of
18 Title 9 of Part 2 of the Code of Civil Procedure, a lien against the
19 personal assets of the facility or an entity related to the licensee
20 based on the monetary judgment obtained shall be filed with the
21 Secretary of State on the forms required for a notice of judgment
22 lien. A lien against the real property of the facility or an entity
23 related to the licensee based on the monetary judgment obtained
24 shall be recorded with the county recorder of the county where the
25 facility of the licensee is located or where the real property of the
26 entity related to the licensee is located. The lien shall not attach
27 to the interests of a lessor, unless the lessor is operating the facility.
28 The authority to place a lien against the personal and real property
29 of the licensee for the reimbursement of any state funds expended
30 pursuant to this section shall be given judgment creditor priority.

31 (3) For purposes of this subdivision, “entity related to the
32 licensee” means an entity, other than a natural person, of which
33 the licensee is a subsidiary or an entity in which any person who
34 was obligated to disclose information under Section 1520 possesses
35 an interest that would also require disclosure pursuant to Section
36 1520.

37 (l) (1) This section does not impair the right of the owner of a
38 community care facility to dispose of his or her property interests
39 in the facility, but any facility operated by a receiver pursuant to
40 this section shall remain subject to that administration until

1 terminated by the court. The termination shall be promptly
2 effectuated, provided that the interests of the clients have been
3 safeguarded as determined by the court.

4 (2) This section does not limit the power of the court to appoint
5 a receiver under any other applicable provision of law or to order
6 any other remedy available under law.

7 (m) (1) Notwithstanding any other provision of law, the receiver
8 shall be liable only for damages resulting from gross negligence
9 in the operation of the facility or intentional tortious acts.

10 (2) All governmental immunities otherwise applicable to the
11 State of California shall also apply in the use of a receiver in the
12 operation of a facility pursuant to this section.

13 (3) The licensee shall not be liable for any occurrences during
14 the receivership except to the extent that the occurrences are the
15 result of the licensee's conduct.

16 (n) The department may adopt regulations for the administration
17 of this section. This section does not impair the authority of the
18 department to temporarily suspend licenses under Section 1550.5
19 or to reach a voluntary agreement with the licensee for alternate
20 management of a community care facility including the use of a
21 temporary manager under Section 1546.1. This section does not
22 authorize the department to interfere in a labor dispute.

23 (o) This section does not apply to a residential facility that serves
24 six or fewer persons and is also the principal residence of the
25 licensee.

26 (p) This section does not apply to a licensee that has obtained
27 a certificate of authority to offer continuing care contracts, as
28 defined in paragraph (8) of subdivision (c) of Section 1771.

29 SEC. 5. Section 1569.481 of the Health and Safety Code, as
30 added by Section 24 of Chapter 29 of the Statutes of 2014, is
31 amended to read:

32 1569.481. (a) (1) It is the intent of the Legislature in enacting
33 this section to authorize the department to take quick, effective
34 action to protect the health and safety of residents of residential
35 care facilities for the elderly and to minimize the effects of transfer
36 trauma that accompany the abrupt transfer of residents by
37 appointing a temporary manager to assume the operation of a
38 facility that is found to be in a condition in which continued
39 operation by the licensee or his or her representative presents a

1 substantial probability of imminent danger of serious physical
2 harm or death to the residents.

3 (2) A temporary manager appointed pursuant to this section
4 shall assume the operation of the facility in order to bring it into
5 compliance with the law, facilitate a transfer of ownership to a
6 new licensee, or ensure the orderly transfer of residents should the
7 facility be required to close. Upon a final decision and order of
8 revocation of the license, issuance of a temporary suspension, or
9 a forfeiture by operation of law, the department shall immediately
10 issue a provisional license to the appointed temporary manager.
11 Notwithstanding the applicable sections of this code governing
12 the revocation of a provisional license, the provisional license
13 issued to a temporary manager shall automatically expire upon the
14 termination of the temporary manager. The temporary manager
15 shall possess the provisional license solely for purposes of carrying
16 out the responsibilities authorized by this section and the duties
17 set forth in the written agreement between the department and the
18 temporary manager. The temporary manager shall have no right
19 to appeal the expiration of the provisional license.

20 (b) For purposes of this section, “temporary manager” means
21 the person, corporation, or other entity appointed temporarily by
22 the department as a substitute facility licensee or administrator
23 with authority to hire, terminate, reassign staff, obligate facility
24 funds, alter facility procedures, and manage the facility to correct
25 deficiencies identified in the facility’s operation. The temporary
26 manager shall have the final authority to direct the care and
27 supervision activities of any person associated with the facility,
28 including superseding the authority of the licensee and the
29 administrator.

30 (c) The director, in order to protect the residents of the facility
31 from physical or mental abuse, abandonment, or any other
32 substantial threat to health or safety, may appoint a temporary
33 manager when any of the following circumstances exist:

34 (1) The director determines that it is necessary to temporarily
35 suspend the license of a residential care facility for the elderly
36 pursuant to Section 1569.50 and the immediate relocation of the
37 residents is not feasible based on transfer trauma, lack of available
38 alternative placements, or other emergency considerations for the
39 health and safety of the residents.

1 (2) The licensee is unwilling or unable to comply with the
2 requirements of Section 1569.525 or the requirements of Section
3 1569.682 regarding the safe and orderly relocation of residents
4 when ordered to do so by the department or when otherwise
5 required by law.

6 (3) The licensee has opted to secure a temporary manager
7 pursuant to Section 1569.525.

8 (d) (1) Upon appointment, the temporary manager shall
9 complete its application for a license to operate a residential care
10 facility for the elderly and take all necessary steps and make best
11 efforts to eliminate any substantial threat to the health and safety
12 to residents or complete the transfer of residents to alternative
13 placements pursuant to Section 1569.525 or 1569.682. For purposes
14 of a provisional license issued to a temporary manager, the
15 licensee's existing fire safety clearance shall serve as the fire safety
16 clearance for the temporary manager's provisional license.

17 (2) A person shall not impede the operation of a temporary
18 manager. The temporary manager's access to, or possession of,
19 the property shall not be interfered with during the term of the
20 temporary manager appointment. There shall be an automatic stay
21 for a 60-day period subsequent to the appointment of a temporary
22 manager of any action that would interfere with the functioning
23 of the facility, including, but not limited to, termination of utility
24 services, attachments, or setoffs of resident trust funds, and
25 repossession of equipment in the facility.

26 (e) (1) The appointment of a temporary manager shall be
27 immediately effective and shall continue for a period not to exceed
28 60 days unless otherwise extended in accordance with paragraph
29 (2) of subdivision (h) at the discretion of the department or as
30 permitted by paragraph (2) of subdivision (d) of Section 1569.525,
31 or unless otherwise terminated earlier by any of the following
32 events:

33 (A) The temporary manager notifies the department, and the
34 department verifies, that the facility meets state and, if applicable,
35 federal standards for operation, and will be able to continue to
36 maintain compliance with those standards after the termination of
37 the appointment of the temporary manager.

38 (B) The department approves a new temporary manager.

39 (C) A new operator is licensed.

40 (D) The department closes the facility.

1 (E) A hearing or court order ends the temporary manager
2 appointment, including the appointment of a receiver under Section
3 1569.482.

4 (F) The appointment is terminated by the department or the
5 temporary manager.

6 (2) The appointment of a temporary manager shall authorize
7 the temporary manager to act pursuant to this section. The
8 appointment shall be made pursuant to a written agreement between
9 the temporary manager and the department that outlines the
10 circumstances under which the temporary manager may expend
11 funds. The department shall provide the licensee and administrator
12 with a copy of the accusation to appoint a temporary manager at
13 the time of appointment. The accusation shall notify the licensee
14 of the licensee's right to petition the Office of Administrative
15 Hearings for a hearing to contest the appointment of the temporary
16 manager as described in subdivision (f) and shall provide the
17 licensee with a form and appropriate information for the licensee's
18 use in requesting a hearing.

19 (3) The director may rescind the appointment of a temporary
20 manager and appoint a new temporary manager at any time that
21 the director determines the temporary manager is not adhering to
22 the conditions of the appointment.

23 (f) (1) The licensee of a residential care facility for the elderly
24 may contest the appointment of the temporary manager by filing
25 a petition for an order to terminate the appointment of the
26 temporary manager with the Office of Administrative Hearings
27 within 15 days from the date of mailing of the accusation to appoint
28 a temporary manager under subdivision (e). On the same day as
29 the petition is filed with the Office of Administrative Hearings,
30 the licensee shall serve a copy of the petition to the office of the
31 director.

32 (2) Upon receipt of a petition under paragraph (1), the Office
33 of Administrative Hearings shall set a hearing date and time within
34 10 business days of the receipt of the petition. The office shall
35 promptly notify the licensee and the department of the date, time,
36 and place of the hearing. The office shall assign the case to an
37 administrative law judge. At the hearing, relevant evidence may
38 be presented pursuant to Section 11513 of the Government Code.
39 The administrative law judge shall issue a written decision on the
40 petition within 10 business days of the conclusion of the hearing.

1 The 10-day time period for holding the hearing and for rendering
2 a decision may be extended by the written agreement of the parties.

3 (3) The administrative law judge shall uphold the appointment
4 of the temporary manager if the department proves, by a
5 preponderance of the evidence, that the circumstances specified
6 in subdivision (c) applied to the facility at the time of the
7 appointment. The administrative law judge shall order the
8 termination of the temporary manager if the burden of proof is not
9 satisfied.

10 (4) The decision of the administrative law judge is subject to
11 judicial review as provided in Section 1094.5 of the Code of Civil
12 Procedure by the superior court of the county where the facility is
13 located. This review may be requested by the licensee of the facility
14 or the department by filing a petition seeking relief from the order.
15 The petition may also request the issuance of temporary injunctive
16 relief pending the decision on the petition. The superior court shall
17 hold a hearing within 10 business days of the filing of the petition
18 and shall issue a decision on the petition within 10 days of the
19 hearing. The department may be represented by legal counsel
20 within the department for purposes of court proceedings authorized
21 under this section.

22 (g) If the licensee does not protest the appointment or does not
23 prevail at either the administrative hearing under paragraph (2) of
24 subdivision (f) or the superior court hearing under paragraph (4)
25 of subdivision (f), the temporary manager shall continue in
26 accordance with subdivision (e).

27 (h) (1) If the licensee petitions the Office of Administrative
28 Hearings pursuant to subdivision (f), the appointment of the
29 temporary manager by the director pursuant to this section shall
30 continue until it is terminated by the administrative law judge or
31 by the superior court, or it shall continue until the conditions of
32 subdivision (e) are satisfied, whichever is earlier.

33 (2) At any time during the appointment of the temporary
34 manager, the director may request an extension of the appointment
35 by filing a petition for hearing with the Office of Administrative
36 Hearings and serving a copy of the petition on the licensee. The
37 office shall proceed as specified in paragraph (2) of subdivision
38 (f). The administrative law judge may extend the appointment of
39 the temporary manager an additional 60 days upon a showing by

1 the department that the conditions specified in subdivision (c)
2 continue to exist.

3 (3) The licensee or the department may request review of the
4 administrative law judge's decision on the extension as provided
5 in paragraph (4) of subdivision (f).

6 (i) The temporary manager appointed pursuant to this section
7 shall meet the following qualifications:

8 (1) Be qualified to oversee correction of deficiencies in a
9 residential care facility for the elderly on the basis of experience
10 and education.

11 (2) Not be the subject of any pending actions by the department
12 or any other state agency nor have ever been excluded from a
13 department-licensed facility or had a license or certification
14 suspended or revoked by an administrative action by the
15 department or any other state agency.

16 (3) Have no financial ownership interest in the facility and have
17 no member of his or her immediate family who has a financial
18 ownership interest in the facility.

19 (4) Not currently serve, or within the past two years have served,
20 as a member of the staff of the facility.

21 (j) Payment of the costs of the temporary manager shall comply
22 with the following requirements:

23 (1) Upon agreement with the licensee, the costs of the temporary
24 manager and any other expenses in connection with the temporary
25 management shall be paid directly by the facility while the
26 temporary manager is assigned to that facility. Failure of the
27 licensee to agree to the payment of those costs may result in the
28 payment of the costs by the department and subsequent required
29 reimbursement of the department by the licensee pursuant to this
30 section.

31 (2) Direct costs of the temporary manager shall be equivalent
32 to the sum of the following:

33 (A) The prevailing fee paid by licensees for positions of the
34 same type in the facility's geographic area.

35 (B) Additional costs that reasonably would have been incurred
36 by the licensee if the licensee and the temporary manager had been
37 in an employment relationship.

38 (C) Any other reasonable costs incurred by the temporary
39 manager in furnishing services pursuant to this section.

1 (3) Direct costs may exceed the amount specified in paragraph
2 (2) if the department is otherwise unable to find a qualified
3 temporary manager.

4 (k) (1) The responsibilities of the temporary manager may
5 include, but are not limited to, the following:

6 (A) Paying wages to staff. The temporary manager shall have
7 the full power to hire, direct, manage, and discharge employees
8 of the facility, subject to any contractual rights they may have.
9 The temporary manager shall pay employees at the same rate of
10 compensation, including benefits, that the employees would have
11 received from the licensee or wages necessary to provide adequate
12 staff for the protection of clients and compliance with the law.

13 (B) Preserving resident funds. The temporary manager shall be
14 entitled to, and shall take possession of, all property or assets of
15 residents that are in the possession of the licensee or administrator
16 of the facility. The temporary manager shall preserve all property,
17 assets, and records of residents of which the temporary manager
18 takes possession.

19 (C) Contracting for outside services as may be needed for the
20 operation of the facility. Any contract for outside services in excess
21 of five thousand dollars (\$5,000) shall be approved by the director.

22 (D) Paying commercial creditors of the facility to the extent
23 required to operate the facility. The temporary manager shall honor
24 all leases, mortgages, and secured transactions affecting the
25 building in which the facility is located and all goods and fixtures
26 in the building, but only to the extent of payments that, in the case
27 of a rental agreement, are for the use of the property during the
28 period of the temporary management, or that, in the case of a
29 purchase agreement, come due during the period of the temporary
30 management.

31 (E) Performing all acts that are necessary and proper to maintain
32 and operate the facility in accordance with sound fiscal policies.
33 The temporary manager shall take action as is reasonably necessary
34 to protect or conserve the assets or property of which the temporary
35 manager takes possession and may use those assets or property
36 only in the performance of the powers and duties set forth in this
37 section.

38 (2) Expenditures by the temporary manager in excess of five
39 thousand dollars (\$5,000) shall be approved by the director. Total
40 encumbrances and expenditures by the temporary manager for the

1 duration of the temporary management shall not exceed the sum
2 of forty-nine thousand nine hundred ninety-nine dollars (\$49,999)
3 unless approved by the director in writing.

4 (3) The temporary manager shall not make capital improvements
5 to the facility in excess of five thousand dollars (\$5,000) without
6 the approval of the director.

7 (l) (1) To the extent department funds are advanced for the
8 costs of the temporary manager or for other expenses in connection
9 with the temporary management, the department shall be
10 reimbursed from the revenues accruing to the facility or to the
11 licensee or an entity related to the licensee. Any reimbursement
12 received by the department shall be redeposited in the account
13 from which the department funds were advanced. If the revenues
14 are insufficient to reimburse the department, the unreimbursed
15 amount shall constitute grounds for a monetary judgment in civil
16 court and a subsequent lien upon the assets of the facility or the
17 proceeds from the sale thereof. Pursuant to Chapter 2 (commencing
18 with Section 697.510) of Division 2 of Title 9 of Part 2 of the Code
19 of Civil Procedure, a lien against the personal assets of the facility
20 or an entity related to the licensee based on the monetary judgment
21 obtained shall be filed with the Secretary of State on the forms
22 required for a notice of judgment lien. A lien against the real
23 property of the facility or an entity related to the licensee based
24 on the monetary judgment obtained shall be recorded with the
25 county recorder of the county where the facility of the licensee is
26 located or where the real property of the entity related to the
27 licensee is located. The lien shall not attach to the interests of a
28 lessor, unless the lessor is operating the facility. The authority to
29 place a lien against the personal and real property of the licensee
30 for the reimbursement of any state funds expended pursuant to this
31 section shall be given judgment creditor priority.

32 (2) For purposes of this section, “entity related to the licensee”
33 means an entity, other than a natural person, of which the licensee
34 is a subsidiary or an entity in which a person who was obligated
35 to disclose information under Section 1569.15 possesses an interest
36 that would also require disclosure pursuant to Section 1569.15.

37 (m) Appointment of a temporary manager under this section
38 does not relieve the licensee of any responsibility for the care and
39 supervision of residents under this chapter. The licensee, even if
40 the license is deemed surrendered or the facility abandoned, shall

1 be required to reimburse the department for all costs associated
2 with operation of the facility during the period the temporary
3 manager is in place that are not accounted for by using facility
4 revenues or for the relocation of residents handled by the
5 department if the licensee fails to comply with the relocation
6 requirements of Section 1569.525 or 1569.682 when required by
7 the department to do so. If the licensee fails to reimburse the
8 department under this section, then the department, along with
9 using its own remedies available under this chapter, may request
10 that the Attorney General's office, the city attorney's office, or the
11 local district attorney's office seek any available criminal, civil,
12 or administrative remedy, including, but not limited to, injunctive
13 relief, restitution, and damages in the same manner as provided
14 for in Chapter 5 (commencing with Section 17200) of Part 2 of
15 Division 7 of the Business and Professions Code.

16 (n) The department may use funds from the emergency resident
17 contingency account pursuant to Section 1569.48 when needed to
18 supplement the operation of the facility or the transfer of residents
19 under the control of the temporary manager appointed under this
20 section if facility revenues are unavailable or exhausted when
21 needed. Pursuant to subdivision (l), the licensee shall be required
22 to reimburse the department for any funds used from the emergency
23 resident contingency account during the period of control of the
24 temporary manager and any incurred costs of collection.

25 (o) This section does not apply to a residential care facility for
26 the elderly that serves six or fewer persons and is also the principal
27 residence of the licensee.

28 (p) Notwithstanding any other provision of law, the temporary
29 manager shall be liable only for damages resulting from gross
30 negligence in the operation of the facility or intentional tortious
31 acts.

32 (q) All governmental immunities otherwise applicable to the
33 state shall also apply to the state in the use of a temporary manager
34 in the operation of a facility pursuant to this section.

35 (r) A licensee shall not be liable for any occurrences during the
36 temporary management under this section except to the extent that
37 the occurrences are the result of the licensee's conduct.

38 (s) The department may adopt regulations for the administration
39 of this section.

1 SEC. 6. Section 1569.482 of the Health and Safety Code, as
2 added by Section 25 of Chapter 29 of the Statutes of 2014, is
3 amended to read:

4 1569.482. (a) It is the intent of the Legislature in enacting this
5 section to authorize the department to take quick, effective action
6 to protect the health and safety of residents of residential care
7 facilities for the elderly and to minimize the effects of transfer
8 trauma that accompany the abrupt transfer of residents through a
9 system whereby the department may apply for a court order
10 appointing a receiver to temporarily operate a residential care
11 facility for the elderly. The receivership is not intended to punish
12 a licensee or to replace attempts to secure cooperative action to
13 protect the residents' health and safety. The receivership is intended
14 to protect the residents in the absence of other reasonably available
15 alternatives. The receiver shall assume the operation of the facility
16 in order to bring it into compliance with law, facilitate a transfer
17 of ownership to a new licensee, or ensure the orderly transfer of
18 residents should the facility be required to close.

19 (b) (1) Whenever circumstances exist indicating that continued
20 management of a residential care facility by the current licensee
21 would present a substantial probability or imminent danger of
22 serious physical harm or death to the residents, or the facility is
23 closing or intends to terminate operation as a residential care
24 facility for the elderly and adequate arrangements for relocation
25 of residents have not been made at least 30 days prior to the closing
26 or termination, the director may petition the superior court for the
27 county in which the facility is located for an order appointing a
28 receiver to temporarily operate the facility in accordance with this
29 section.

30 (2) The petition shall allege the facts upon which the action is
31 based and shall be supported by an affidavit of the director. A copy
32 of the petition and affidavits, together with an order to appear and
33 show cause why temporary authority to operate the residential care
34 facility for the elderly should not be vested in a receiver pursuant
35 to this section, shall be delivered to the licensee, administrator, or
36 a responsible person at the facility to the attention of the licensee
37 and administrator. The order shall specify a hearing date, which
38 shall be not less than 10, nor more than 15, days following delivery
39 of the petition and order upon the licensee, except that the court
40 may shorten or lengthen the time upon a showing of just cause.

1 (c) (1) If the director files a petition pursuant to subdivision (b)
2 for appointment of a receiver to operate a residential care facility
3 for the elderly, in accordance with Section 564 of the Code of Civil
4 Procedure, the director may also petition the court, in accordance
5 with Section 527 of the Code of Civil Procedure, for an order
6 appointing a temporary receiver. A temporary receiver appointed
7 by the court pursuant to this subdivision shall serve until the court
8 has made a final determination on the petition for appointment of
9 a receiver filed pursuant to subdivision (b). A receiver appointed
10 pursuant to this subdivision shall have the same powers and duties
11 as a receiver would have if appointed pursuant to subdivision (b).
12 Upon the director filing a petition for a receiver, the receiver shall
13 complete its application for a provisional license to operate a
14 residential care facility for the elderly. For purposes of a
15 provisional license issued to a receiver, the licensee's existing fire
16 safety clearance shall serve as the fire safety clearance for the
17 receiver's provisional license.

18 (2) At the time of the hearing, the department shall advise the
19 licensee of the name of the proposed receiver. The receiver shall
20 be a certified residential care facility for the elderly administrator
21 or other responsible person or entity, as determined by the court,
22 from a list of qualified receivers established by the department,
23 and, if need be, with input from providers of residential care and
24 consumer representatives. Persons appearing on the list shall have
25 experience in the delivery of care services to clients of community
26 care facilities, and, if feasible, shall have experience with the
27 operation of a residential care facility for the elderly, shall not be
28 the subject of any pending actions by the department or any other
29 state agency, and shall not have ever been excluded from a
30 department licensed facility nor have had a license or certification
31 suspended or revoked by an administrative action by the
32 department or any other state agency. The receivers shall have
33 sufficient background and experience in management and finances
34 to ensure compliance with orders issued by the court. The owner,
35 licensee, or administrator shall not be appointed as the receiver
36 unless authorized by the court.

37 (3) If at the conclusion of the hearing, which may include oral
38 testimony and cross-examination at the option of any party, the
39 court determines that adequate grounds exist for the appointment
40 of a receiver and that there is no other reasonably available remedy

1 to protect the residents, the court may issue an order appointing a
2 receiver to temporarily operate the residential care facility for the
3 elderly and enjoining the licensee from interfering with the receiver
4 in the conduct of his or her duties. In these proceedings, the court
5 shall make written findings of fact and conclusions of law and
6 shall require an appropriate bond to be filed by the receiver and
7 paid for by the licensee. The bond shall be in an amount necessary
8 to protect the licensee in the event of any failure on the part of the
9 receiver to act in a reasonable manner. The bond requirement may
10 be waived by the licensee.

11 (4) The court may permit the licensee to participate in the
12 continued operation of the facility during the pendency of any
13 receivership ordered pursuant to this section and shall issue an
14 order detailing the nature and scope of participation.

15 (5) Failure of the licensee to appear at the hearing on the petition
16 shall constitute an admission of all factual allegations contained
17 in the petition for purposes of these proceedings only.

18 (6) The licensee shall receive notice and a copy of the
19 application each time the receiver applies to the court or the
20 department for instructions regarding his or her duties under this
21 section, when an accounting pursuant to subdivision (i) is
22 submitted, and when any other report otherwise required under
23 this section is submitted. The licensee shall have an opportunity
24 to present objections or otherwise participate in those proceedings.

25 (d) A person shall not impede the operation of a receivership
26 created under this section. The receiver's access to, or possession
27 of, the property shall not be interfered with during the term of the
28 receivership. There shall be an automatic stay for a 60-day period
29 subsequent to the appointment of a receiver of any action that
30 would interfere with the functioning of the facility, including, but
31 not limited to, cancellation of insurance policies executed by the
32 licensees, termination of utility services, attachments, or setoffs
33 of resident trust funds and working capital accounts and
34 repossession of equipment in the facility.

35 (e) When a receiver is appointed, the licensee may, at the
36 discretion of the court, be divested of possession and control of
37 the facility in favor of the receiver. If the court divests the licensee
38 of possession and control of the facility in favor of the receiver,
39 the department shall immediately issue a provisional license to the
40 receiver. Notwithstanding the applicable sections of this code

governing the revocation of a provisional license, the provisional license issued to a receiver shall automatically expire upon the termination of the receivership. The receiver shall possess the provisional license solely for purposes of carrying out the responsibilities authorized by this section and the duties ordered by the court. The receiver shall have no right to appeal the expiration of the provisional license.

(f) A receiver appointed pursuant to this section:

(1) May exercise those powers and shall perform those duties ordered by the court, in addition to other duties provided by statute.

(2) Shall operate the facility in a manner that ensures the safety and adequate care for the residents.

(3) Shall have the same rights to possession of the building in which the facility is located, and of all goods and fixtures in the building at the time the petition for receivership is filed, as the licensee and administrator would have had if the receiver had not been appointed.

(4) May use the funds, building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to residents and to any other persons receiving services from the facility at the time the petition for receivership was filed.

(5) Shall take title to all revenue coming to the facility in the name of the receiver who shall use it for the following purposes in descending order of priority:

(A) To pay wages to staff. The receiver shall have full power to hire, direct, manage, and discharge employees of the facility, subject to any contractual rights they may have. The receiver shall pay employees at the same rate of compensation, including benefits, that the employees would have received from the licensee or wages necessary to provide adequate staff for the protection of the clients and compliance with the law.

(B) To preserve resident funds. The receiver shall be entitled to, and shall take, possession of all property or assets of residents that are in the possession of the licensee or operator of the facility. The receiver shall preserve all property, assets, and records of residents of which the receiver takes possession.

(C) To contract for outside services as may be needed for the operation of the residential care facility for the elderly. Any contract for outside services in excess of five thousand dollars (\$5,000) shall be approved by the court.

1 (D) To pay commercial creditors of the facility to the extent
2 required to operate the facility. Except as provided in subdivision
3 (h), the receiver shall honor all leases, mortgages, and secured
4 transactions affecting the building in which the facility is located
5 and all goods and fixtures in the building of which the receiver
6 has taken possession, but only to the extent of payments which,
7 in the case of a rental agreement, are for the use of the property
8 during the period of receivership, or which, in the case of a
9 purchase agreement, come due during the period of receivership.

10 (E) To receive a salary, as approved by the court.

11 (F) To do all things necessary and proper to maintain and operate
12 the facility in accordance with sound fiscal policies. The receiver
13 shall take action as is reasonably necessary to protect or conserve
14 the assets or property of which the receiver takes possession and
15 may use those assets or property only in the performance of the
16 powers and duties set out in this section and by order of the court.

17 (G) To ask the court for direction in the treatment of debts
18 incurred prior to the appointment, if the licensee's debts appear
19 extraordinary, of questionable validity, or unrelated to the normal
20 and expected maintenance and operation of the facility, or if
21 payment of the debts will interfere with the purposes of
22 receivership.

23 (g) (1) A person who is served with notice of an order of the
24 court appointing a receiver and of the receiver's name and address
25 shall be liable to pay the receiver, rather than the licensee, for any
26 goods or services provided by the residential care facility for the
27 elderly after the date of the order. The receiver shall give a receipt
28 for each payment and shall keep a copy of each receipt on file.
29 The receiver shall deposit amounts received in a special account
30 and shall use this account for all disbursements. Payment to the
31 receiver pursuant to this subdivision shall discharge the obligation
32 to the extent of the payment and shall not thereafter be the basis
33 of a claim by the licensee or any other person. A resident shall not
34 be evicted nor may any contract or rights be forfeited or impaired,
35 nor may any forfeiture be effected or liability increased, by reason
36 of an omission to pay the licensee, operator, or other person a sum
37 paid to the receiver pursuant to this subdivision.

38 (2) This section shall not be construed to suspend, during the
39 temporary management by the receiver, any obligation of the
40 licensee for payment of local, state, or federal taxes. A licensee

1 shall not be held liable for acts or omissions of the receiver during
2 the term of the temporary management.

3 (3) Upon petition of the receiver, the court may order immediate
4 payment to the receiver for past services that have been rendered
5 and billed, and the court may also order a sum not to exceed one
6 month's advance payment to the receiver of any sums that may
7 become payable under the Medi-Cal program.

8 (h) (1) A receiver shall not be required to honor a lease,
9 mortgage, or secured transaction entered into by the licensee of
10 the facility and another party if the court finds that the agreement
11 between the parties was entered into for a collusive, fraudulent
12 purpose or that the agreement is unrelated to the operation of the
13 facility.

14 (2) A lease, mortgage, or secured transaction or an agreement
15 unrelated to the operation of the facility that the receiver is
16 permitted to dishonor pursuant to this subdivision shall only be
17 subject to nonpayment by the receiver for the duration of the
18 receivership, and the dishonoring of the lease, mortgage, security
19 interest, or other agreement, to this extent, by the receiver shall
20 not relieve the owner or operator of the facility from any liability
21 for the full amount due under the lease, mortgage, security interest,
22 or other agreement.

23 (3) If the receiver is in possession of real estate or goods subject
24 to a lease, mortgage, or security interest that the receiver is
25 permitted to avoid pursuant to paragraph (1), and if the real estate
26 or goods are necessary for the continued operation of the facility,
27 the receiver may apply to the court to set a reasonable rent, price,
28 or rate of interest to be paid by the receiver during the duration of
29 the receivership. The court shall hold a hearing on this application
30 within 15 days. The receiver shall send notice of the application
31 to any known owner of the property involved at least 10 days prior
32 to the hearing.

33 (4) Payment by the receiver of the amount determined by the
34 court to be reasonable is a defense to any action against the receiver
35 for payment or possession of the goods or real estate, subject to
36 the lease or mortgage, which is brought by any person who received
37 the notice required by this subdivision. However, payment by the
38 receiver of the amount determined by the court to be reasonable
39 shall not relieve the owner or operator of the facility from any
40 liability for the difference between the amount paid by the receiver

1 and the amount due under the original lease, mortgage, or security
2 interest.

3 (i) A monthly accounting shall be made by the receiver to the
4 department of all moneys received and expended by the receiver
5 on or before the 15th day of the following month or as ordered by
6 the court, and the remainder of income over expenses for that
7 month shall be returned to the licensee. A copy of the accounting
8 shall be provided to the licensee. The licensee or owner of the
9 residential care facility for the elderly may petition the court for
10 a determination as to the reasonableness of any expenditure made
11 pursuant to paragraph (5) of subdivision (f).

12 (j) (1) The receiver shall be appointed for an initial period of
13 not more than three months. The initial three-month period may
14 be extended for additional periods not exceeding three months, as
15 determined by the court pursuant to this section. At the end of one
16 month, the receiver shall report to the court on its assessment of
17 the probability that the residential care facility for the elderly will
18 meet state standards for operation by the end of the initial
19 three-month period and will continue to maintain compliance with
20 those standards after termination of the receiver's management.
21 If it appears that the facility cannot be brought into compliance
22 with state standards within the initial three-month period, the court
23 shall take appropriate action as follows:

24 (A) Extend the receiver's management for an additional three
25 months if there is a substantial likelihood that the facility will meet
26 state standards within that period and will maintain compliance
27 with the standards after termination of the receiver's management.
28 The receiver shall report to the court in writing upon the facility's
29 progress at the end of six weeks of any extension ordered pursuant
30 to this paragraph.

31 (B) Order the director to revoke or temporarily suspend, or both,
32 the license pursuant to Section 1569.50 and extend the receiver's
33 management for the period necessary to transfer clients in
34 accordance with the transfer plan, but for not more than three
35 months from the date of initial appointment of a receiver, or 14
36 days, whichever is greater. An extension of an additional three
37 months may be granted if deemed necessary by the court.

38 (2) If it appears at the end of six weeks of an extension ordered
39 pursuant to subparagraph (A) of paragraph (1) that the facility
40 cannot be brought into compliance with state standards for

1 operation or that it will not maintain compliance with those
2 standards after the receiver's management is terminated, the court
3 shall take appropriate action as specified in subparagraph (B) of
4 paragraph (1).

5 (3) In evaluating the probability that a residential care facility
6 for the elderly will maintain compliance with state standards of
7 operation after the termination of receiver management ordered
8 by the court, the court shall consider at least the following factors:

9 (A) The duration, frequency, and severity of past violations in
10 the facility.

11 (B) History of compliance in other care facilities operated by
12 the proposed licensee.

13 (C) Efforts by the licensee to prevent and correct past violations.

14 (D) The financial ability of the licensee to operate in compliance
15 with state standards.

16 (E) The recommendations and reports of the receiver.

17 (4) Management of a residential care facility for the elderly
18 operated by a receiver pursuant to this section shall not be returned
19 to the licensee, to any person related to the licensee, or to any
20 person who served as a member of the facility's staff or who was
21 employed by the licensee prior to the appointment of the receiver
22 unless both of the following conditions are met:

23 (A) The department believes that it would be in the best interests
24 of the residents of the facility, requests that the court return the
25 operation of the facility to the former licensee, and provides clear
26 and convincing evidence to the court that it is in the best interests
27 of the facility's residents to take that action.

28 (B) The court finds that the licensee has fully cooperated with
29 the department in the appointment and ongoing activities of a
30 receiver appointed pursuant to this section, and, if applicable, any
31 temporary manager appointed pursuant to Section 1569.481.

32 (5) The owner of the facility may at any time sell, lease, or close
33 the facility, subject to the following provisions:

34 (A) If the owner closes the facility, or the sale or lease results
35 in the closure of the facility, the court shall determine if a transfer
36 plan is necessary. If the court so determines, the court shall adopt
37 and implement a transfer plan consistent with the provisions of
38 Section 1569.682.

39 (B) If the licensee proposes to sell or lease the facility and the
40 facility will continue to operate as a residential care facility for

1 the elderly, the court and the department shall reevaluate any
2 proposed transfer plan. If the court and the department determine
3 that the sale or lease of the facility will result in compliance with
4 licensing standards, the transfer plan and the receivership shall,
5 subject to those conditions that the court may impose and enforce,
6 be terminated upon the effective date of the sale or lease.

7 (k) (1) The salary of the receiver shall be set by the court
8 commensurate with community care facility industry standards,
9 giving due consideration to the difficulty of the duties undertaken,
10 and shall be paid from the revenue coming to the facility. If the
11 revenue is insufficient to pay the salary in addition to other
12 expenses of operating the facility, the receiver's salary shall be
13 paid from the emergency resident contingency account as provided
14 in Section 1569.48. State advances of funds in excess of five
15 thousand dollars (\$5,000) shall be approved by the director. Total
16 advances for encumbrances and expenditures shall not exceed the
17 sum of forty-nine thousand nine hundred ninety-nine dollars
18 (\$49,999) unless approved by the director in writing.

19 (2) To the extent state funds are advanced for the salary of the
20 receiver or for other expenses in connection with the receivership,
21 as limited by subdivision (g), the state shall be reimbursed from
22 the revenues accruing to the facility or to the licensee or an entity
23 related to the licensee. Any reimbursement received by the state
24 shall be redeposited in the account from which the state funds were
25 advanced. If the revenues are insufficient to reimburse the state,
26 the unreimbursed amount shall constitute grounds for a monetary
27 judgment in civil court and a subsequent lien upon the assets of
28 the facility or the proceeds from the sale thereof. Pursuant to
29 Chapter 2 (commencing with Section 697.510) of Division 2 of
30 Title 9 of Part 2 of the Code of Civil Procedure, a lien against the
31 personal assets of the facility or an entity related to the licensee
32 based on the monetary judgment obtained shall be filed with the
33 Secretary of State on the forms required for a notice of judgment
34 lien. A lien against the real property of the facility or an entity
35 related to the licensee based on the monetary judgment obtained
36 shall be recorded with the county recorder of the county where the
37 facility of the licensee is located or where the real property of the
38 entity related to the licensee is located. The lien shall not attach
39 to the interests of a lessor, unless the lessor is operating the facility.
40 The authority to place a lien against the personal and real property

1 of the licensee for the reimbursement of any state funds expended
2 pursuant to this section shall be given judgment creditor priority.

3 (3) For purposes of this subdivision, “entity related to the
4 licensee” means an entity, other than a natural person, of which
5 the licensee is a subsidiary or an entity in which any person who
6 was obligated to disclose information under Section 1569.15
7 possesses an interest that would also require disclosure pursuant
8 to Section 1569.15.

9 (l) (1) This section does not impair the right of the owner of a
10 residential care facility for the elderly to dispose of his or her
11 property interests in the facility, but any facility operated by a
12 receiver pursuant to this section shall remain subject to that
13 administration until terminated by the court. The termination shall
14 be promptly effectuated, provided that the interests of the residents
15 have been safeguarded as determined by the court.

16 (2) This section does not limit the power of the court to appoint
17 a receiver under any other applicable provision of law or to order
18 any other remedy available under law.

19 (m) (1) Notwithstanding any other provision of law, the receiver
20 shall be liable only for damages resulting from gross negligence
21 in the operation of the facility or intentional tortious acts.

22 (2) All governmental immunities otherwise applicable to the
23 State of California shall also apply in the use of a receiver in the
24 operation of a facility pursuant to this section.

25 (3) The licensee shall not be liable for any occurrences during
26 the receivership except to the extent that the occurrences are the
27 result of the licensee’s conduct.

28 (n) The department may adopt regulations for the administration
29 of this section. This section does not impair the authority of the
30 department to temporarily suspend licenses under Section 1569.50
31 or to reach a voluntary agreement with the licensee for alternate
32 management of a community care facility including the use of a
33 temporary manager under Section 1569.481. This section does not
34 authorize the department to interfere in a labor dispute.

35 (o) This section does not apply to a residential care facility for
36 the elderly that serves six or fewer persons and is also the principal
37 residence of the licensee.

38 (p) This section does not apply to a licensee that has obtained
39 a certificate of authority to offer continuing care contracts, as
40 defined in paragraph (8) of subdivision (c) of Section 1771.

SEC. 7. Section 1569.682 of the Health and Safety Code is amended to read:

1569.682. (a) A licensee of a licensed residential care facility for the elderly shall, prior to transferring a resident of the facility to another facility or to an independent living arrangement as a result of the forfeiture of a license, as described in subdivision (a), (b), or (f) of Section 1569.19, or a change of use of the facility pursuant to the department's regulations, take all reasonable steps to transfer affected residents safely and to minimize possible transfer trauma, and shall, at a minimum, do all of the following:

(1) Prepare, for each resident, a relocation evaluation of the needs of that resident, which shall include both of the following:

(A) Recommendations on the type of facility that would meet the needs of the resident based on the current service plan.

(B) A list of facilities, within a 60-mile radius of the resident's current facility, that meet the resident's present needs.

(2) Provide each resident or the resident's responsible person with a written notice no later than 60 days before the intended eviction. The notice shall include all of the following:

(A) The reason for the eviction, with specific facts to permit a determination of the date, place, witnesses, and circumstances concerning the reasons.

(B) A copy of the resident's current service plan.

(C) The relocation evaluation.

(D) A list of referral agencies.

(E) The right of the resident or resident's legal representative to contact the department to investigate the reasons given for the eviction pursuant to Section 1569.35.

(F) The contact information for the local long-term care ombudsman, including address and telephone number.

(3) Discuss the relocation evaluation with the resident and his or her legal representative within 30 days of issuing the notice of eviction.

(4) Submit a written report of any eviction to the licensing agency within five days.

(5) Upon issuing the written notice of eviction, a licensee shall not accept new residents or enter into new admission agreements.

(6) (A) For paid preadmission fees in excess of five hundred dollars (\$500), the resident is entitled to a refund in accordance with all of the following:

1 (i) A 100-percent refund if preadmission fees were paid within
2 six months of notice of eviction.

3 (ii) A 75-percent refund if preadmission fees were paid more
4 than six months but not more than 12 months before notice of
5 eviction.

6 (iii) A 50-percent refund if preadmission fees were paid more
7 than 12 months but not more than 18 months before notice of
8 eviction.

9 (iv) A 25-percent refund if preadmission fees were paid more
10 than 18 months but less than 25 months before notice of eviction.

11 (B) No preadmission refund is required if preadmission fees
12 were paid 25 months or more before the notice of eviction.

13 (C) The preadmission refund required by this paragraph shall
14 be paid within 15 days of issuing the eviction notice. In lieu of the
15 refund, the resident may request that the licensee provide a credit
16 toward the resident's monthly fee obligation in an amount equal
17 to the preadmission fee refund due.

18 (7) If the resident gives notice five days before leaving the
19 facility, the licensee shall refund to the resident or his or her legal
20 representative a proportional per diem amount of any prepaid
21 monthly fees at the time the resident leaves the facility and the
22 unit is vacated. Otherwise the licensee shall pay the refund within
23 seven days from the date that the resident leaves the facility and
24 the unit is vacated.

25 (8) Within 10 days of all residents having left the facility, the
26 licensee, based on information provided by the resident or
27 resident's legal representative, shall submit a final list of names
28 and new locations of all residents to the department and the local
29 ombudsman program.

30 (b) If seven or more residents of a residential care facility for
31 the elderly will be transferred as a result of the forfeiture of a
32 license or change in the use of the facility pursuant to subdivision
33 (a), the licensee shall submit a proposed closure plan to the
34 department for approval. The department shall approve or
35 disapprove the closure plan, and monitor its implementation, in
36 accordance with the following requirements:

37 (1) Upon submission of the closure plan, the licensee shall be
38 prohibited from accepting new residents and entering into new
39 admission agreements for new residents.

1 (2) The closure plan shall meet the requirements described in
2 subdivision (a), and describe the staff available to assist in the
3 transfers. The department's review shall include a determination
4 as to whether the licensee's closure plan contains a relocation
5 evaluation for each resident.

6 (3) Within 15 working days of receipt, the department shall
7 approve or disapprove the closure plan prepared pursuant to this
8 subdivision, and, if the department approves the plan, it shall
9 become effective upon the date the department grants its written
10 approval of the plan.

11 (4) If the department disapproves a closure plan, the licensee
12 may resubmit an amended plan, which the department shall
13 promptly either approve or disapprove, within 10 working days
14 of receipt by the department of the amended plan. If the department
15 fails to approve a closure plan, it shall inform the licensee, in
16 writing, of the reasons for the disapproval of the plan.

17 (5) If the department fails to take action within 20 working days
18 of receipt of either the original or the amended closure plan, the
19 plan, or amended plan, as the case may be, shall be deemed
20 approved.

21 (6) Until such time that the department has approved a licensee's
22 closure plan, the facility shall not issue a notice of transfer or
23 require any resident to transfer.

24 (7) Upon approval by the department, the licensee shall send a
25 copy of the closure plan to the local ombudsman program.

26 (c) (1) If a licensee fails to comply with the requirements of
27 this section, or if the director determines that it is necessary to
28 protect the residents of a facility from physical or mental abuse,
29 abandonment, or any other substantial threat to health or safety,
30 the department shall take any necessary action to minimize trauma
31 for the residents, including caring for the residents through the use
32 of a temporary manager or receiver as provided for in Sections
33 1569.481 and 1569.482 when the director determines the immediate
34 relocation of the residents is not feasible based on transfer trauma
35 or other considerations such as the unavailability of alternative
36 placements. The department shall contact any local agency that
37 may have assessment placement, protective, or advocacy
38 responsibility for the residents, and shall work together with those
39 agencies to locate alternative placement sites, contact relatives or
40 other persons responsible for the care of these residents, provide

1 onsite evaluation of the residents, and assist in the transfer of
2 residents.

3 (2) The participation of the department and local agencies in
4 the relocation of residents from a residential care facility for the
5 elderly shall not relieve the licensee of any responsibility under
6 this section. A licensee that fails to comply with the requirements
7 of this section shall be required to reimburse the department and
8 local agencies for the cost of providing the relocation services or
9 the costs incurred in caring for the residents through the use of a
10 temporary manager or receiver as provided for in Sections
11 1569.481 and 1569.482. If the licensee fails to provide the
12 relocation services required in this section, then the department
13 may request that the Attorney General's office, the city attorney's
14 office, or the local district attorney's office seek injunctive relief
15 and damages in the same manner as provided for in Chapter 5
16 (commencing with Section 17200) of Part 2 of Division 7 of the
17 Business and Professions Code, including restitution to the
18 department of any costs incurred in caring for the residents through
19 the use of a temporary manager or receiver as provided for in
20 Sections 1569.481 and 1569.482.

21 (d) A licensee who fails to comply with requirements of this
22 section shall be liable for the imposition of civil penalties in the
23 amount of one hundred dollars (\$100) per violation per day for
24 each day that the licensee is in violation of this section, until such
25 time that the violation has been corrected. The civil penalties shall
26 be issued immediately following the written notice of violation.
27 However, if the violation does not present an immediate or
28 substantial threat to the health or safety of residents and the licensee
29 corrects the violation within three days after receiving the notice
30 of violation, the licensee shall not be liable for payment of any
31 civil penalties pursuant to this subdivision related to the corrected
32 violation.

33 (e) A resident of a residential care facility for the elderly covered
34 under this section may bring a civil action against any person, firm,
35 partnership, or corporation who owns, operates, establishes,
36 manages, conducts, or maintains a residential care facility for the
37 elderly who violates the rights of a resident, as set forth in this
38 section. Any person, firm, partnership, or corporation who owns,
39 operates, establishes, manages, conducts, or maintains a residential
40 care facility for the elderly who violates this section shall be

1 responsible for the acts of the facility's employees and shall be
2 liable for costs and attorney's fees. Any such residential care
3 facility for the elderly may also be enjoined from permitting the
4 violation to continue. The remedies specified in this section shall
5 be in addition to any other remedy provided by law.

6 (f) This section shall not apply to a licensee that has obtained
7 a certificate of authority to offer continuing care contracts, as
8 defined in paragraph (8) of subdivision (c) of Section 1771.

9 SEC. 7.5. Section 1569.682 of the Health and Safety Code is
10 amended to read:

11 1569.682. (a) A licensee of a licensed residential care facility
12 for the elderly shall, prior to transferring a resident of the facility
13 to another facility or to an independent living arrangement as a
14 result of the forfeiture of a license, as described in subdivision (a),
15 (b), or (f) of Section 1569.19, or a change of use of the facility
16 pursuant to the department's regulations, take all reasonable steps
17 to transfer affected residents safely and to minimize possible
18 transfer trauma, and shall, at a minimum, do all of the following:

19 (1) Prepare, for each resident, a relocation evaluation of the
20 needs of that resident, which shall include both of the following:

21 (A) Recommendations on the type of facility that would meet
22 the needs of the resident based on the current service plan.

23 (B) A list of facilities, within a 60-mile radius of the resident's
24 current facility, that meet the resident's present needs.

25 (2) Provide each resident or the resident's responsible person
26 with a written notice no later than 60 days before the intended
27 eviction. The notice shall include all of the following:

28 (A) The reason for the eviction, with specific facts to permit a
29 determination of the date, place, witnesses, and circumstances
30 concerning the reasons.

31 (B) A copy of the resident's current service plan.

32 (C) The relocation evaluation.

33 (D) A list of referral agencies.

34 (E) The right of the resident or resident's legal representative
35 to contact the department to investigate the reasons given for the
36 eviction pursuant to Section 1569.35.

37 (F) The contact information for the local long-term care
38 ombudsman, including address and telephone number.

1 (3) Discuss the relocation evaluation with the resident and his
2 or her legal representative within 30 days of issuing the notice of
3 eviction.

4 (4) Submit a written report of any eviction to the licensing
5 agency within five days.

6 (5) Upon issuing the written notice of eviction, a licensee shall
7 not accept new residents or enter into new admission agreements.

8 (6) (A) For paid preadmission fees in excess of five hundred
9 dollars (\$500), the resident is entitled to a refund in accordance
10 with all of the following:

11 (i) A 100-percent refund if preadmission fees were paid within
12 six months of notice of eviction.

13 (ii) A 75-percent refund if preadmission fees were paid more
14 than six months but not more than 12 months before notice of
15 eviction.

16 (iii) A 50-percent refund if preadmission fees were paid more
17 than 12 months but not more than 18 months before notice of
18 eviction.

19 (iv) A 25-percent refund if preadmission fees were paid more
20 than 18 months but less than 25 months before notice of eviction.

21 (B) No preadmission refund is required if preadmission fees
22 were paid 25 months or more before the notice of eviction.

23 (C) The preadmission refund required by this paragraph shall
24 be paid within 15 days of issuing the eviction notice. In lieu of the
25 refund, the resident may request that the licensee provide a credit
26 toward the resident's monthly fee obligation in an amount equal
27 to the preadmission fee refund due.

28 (7) If the resident gives notice five days before leaving the
29 facility, the licensee shall refund to the resident or his or her legal
30 representative a proportional per diem amount of any prepaid
31 monthly fees at the time the resident leaves the facility and the
32 unit is vacated. Otherwise the licensee shall pay the refund within
33 seven days from the date that the resident leaves the facility and
34 the unit is vacated.

35 (8) Within 10 days of all residents having left the facility, the
36 licensee, based on information provided by the resident or
37 resident's legal representative, shall submit a final list of names
38 and new locations of all residents to the department and the local
39 ombudsman program.

(b) If seven or more residents of a residential care facility for the elderly will be transferred as a result of the forfeiture of a license or change in the use of the facility pursuant to subdivision (a), the licensee shall submit a proposed closure plan to the department for approval. The department shall approve or disapprove the closure plan, and monitor its implementation, in accordance with the following requirements:

(1) Upon submission of the closure plan, the licensee shall be prohibited from accepting new residents and entering into new admission agreements for new residents.

(2) The closure plan shall meet the requirements described in subdivision (a), and describe the staff available to assist in the transfers. The department's review shall include a determination as to whether the licensee's closure plan contains a relocation evaluation for each resident.

(3) Within 15 working days of receipt, the department shall approve or disapprove the closure plan prepared pursuant to this subdivision, and, if the department approves the plan, it shall become effective upon the date the department grants its written approval of the plan.

(4) If the department disapproves a closure plan, the licensee may resubmit an amended plan, which the department shall promptly either approve or disapprove, within 10 working days of receipt by the department of the amended plan. If the department fails to approve a closure plan, it shall inform the licensee, in writing, of the reasons for the disapproval of the plan.

(5) If the department fails to take action within 20 working days of receipt of either the original or the amended closure plan, the plan, or amended plan, as the case may be, shall be deemed approved.

(6) Until such time that the department has approved a licensee's closure plan, the facility shall not issue a notice of transfer or require any resident to transfer.

(7) Upon approval by the department, the licensee shall send a copy of the closure plan to the local ombudsman program.

(c) (1) If a licensee fails to comply with the requirements of this section, or if the director determines that it is necessary to protect the residents of a facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall take any necessary action to minimize trauma

1 for the residents, including caring for the residents through the use
2 of a temporary manager or receiver as provided for in Sections
3 1569.481 and 1569.482 when the director determines the immediate
4 relocation of the residents is not feasible based on transfer trauma
5 or other considerations such as the unavailability of alternative
6 placements. The department shall contact any local agency that
7 may have assessment placement, protective, or advocacy
8 responsibility for the residents, and shall work together with those
9 agencies to locate alternative placement sites, contact relatives or
10 other persons responsible for the care of these residents, provide
11 onsite evaluation of the residents, and assist in the transfer of
12 residents.

13 (2) The participation of the department and local agencies in
14 the relocation of residents from a residential care facility for the
15 elderly shall not relieve the licensee of any responsibility under
16 this section. A licensee that fails to comply with the requirements
17 of this section shall be required to reimburse the department and
18 local agencies for the cost of providing the relocation services or
19 the costs incurred in caring for the residents through the use of a
20 temporary manager or receiver as provided for in Sections
21 1569.481 and 1569.482. If the licensee fails to provide the
22 relocation services required in this section, then the department
23 may request that the Attorney General's office, the city attorney's
24 office, or the local district attorney's office seek injunctive relief
25 and damages in the same manner as provided for in Chapter 5
26 (commencing with Section 17200) of Part 2 of Division 7 of the
27 Business and Professions Code, including restitution to the
28 department of any costs incurred in caring for the residents through
29 the use of a temporary manager or receiver as provided for in
30 Sections 1569.481 and 1569.482.

31 (d) A licensee who fails to comply with requirements of this
32 section shall be liable for the imposition of civil penalties in the
33 amount of one hundred dollars (\$100) per violation per day for
34 each day that the licensee is in violation of this section, until such
35 time that the violation has been corrected. The civil penalties shall
36 be issued immediately following the written notice of violation.
37 However, if the violation does not present an immediate or
38 substantial threat to the health or safety of residents and the licensee
39 corrects the violation within three days after receiving the notice
40 of violation, the licensee shall not be liable for payment of any

1 civil penalties pursuant to this subdivision related to the corrected
2 violation.

3 (e) A licensee, on and after January 1, 2015, who fails to comply
4 with this section and abandons the facility and the residents in care
5 resulting in an immediate and substantial threat to the health and
6 safety of the abandoned residents, in addition to forfeiture of the
7 license pursuant to Section 1569.19, shall be excluded from
8 licensure in facilities licensed by the department without the right
9 to petition for reinstatement.

10 (f) A resident of a residential care facility for the elderly covered
11 under this section may bring a civil action against any person, firm,
12 partnership, or corporation who owns, operates, establishes,
13 manages, conducts, or maintains a residential care facility for the
14 elderly who violates the rights of a resident, as set forth in this
15 section. Any person, firm, partnership, or corporation who owns,
16 operates, establishes, manages, conducts, or maintains a residential
17 care facility for the elderly who violates this section shall be
18 responsible for the acts of the facility's employees and shall be
19 liable for costs and attorney's fees. Any such residential care
20 facility for the elderly may also be enjoined from permitting the
21 violation to continue. The remedies specified in this section shall
22 be in addition to any other remedy provided by law.

23 (g) This section shall not apply to a licensee that has obtained
24 a certificate of authority to offer continuing care contracts, as
25 defined in paragraph (8) of subdivision (c) of Section 1771.

26 SEC. 8. Section 11461.3 of the Welfare and Institutions Code,
27 as added by Section 74 of Chapter 29 of the Statutes of 2014, is
28 amended to read:

29 11461.3. (a) The Approved Relative Caregiver Funding Option
30 Program is hereby established for the purpose of making the
31 amount paid to approved relative caregivers for the in-home care
32 of children placed with them who are ineligible for AFDC-FC
33 payments equal to the amount paid on behalf of children who are
34 eligible for AFDC-FC payments. This is an optional program for
35 counties choosing to participate, and in so doing, participating
36 counties agree to the terms of this section as a condition of their
37 participation. It is the intent of the Legislature that the funding
38 described in paragraph (1) of subdivision (e) for the Approved
39 Relative Caregiver Funding Option Program be appropriated, and

1 available for use from January through December of each year,
2 unless otherwise specified.

3 (b) Subject to subdivision (c), effective January 1, 2015, counties
4 shall pay an approved relative caregiver a per child per month rate
5 in return for the care and supervision, as defined in subdivision
6 (b) of Section 11460, of a child that is placed with the relative
7 caregiver that is equal to the basic rate paid to foster care providers
8 pursuant to subdivision (g) of Section 11461, if both of the
9 following conditions are met:

10 (1) The county with payment responsibility has notified the
11 department in writing by October 1 of the year before participation
12 begins of its decision to participate in the Approved Relative
13 Caregiver Funding Option Program.

14 (2) The related child placed in the home meets all of the
15 following requirements:

16 (A) The child resides in the State of California.

17 (B) The child is described by subdivision (b), (c), or (e) of
18 Section 11401 and the county welfare department or the county
19 probation department is responsible for the placement and care of
20 the child.

21 (C) The child is not eligible for AFDC-FC while placed with
22 the approved relative caregiver because the child is not eligible
23 for federal financial participation in the AFDC-FC payment.

24 (c) A county's election to participate in the Approved Relative
25 Caregiver Funding Option Program shall affirmatively indicate
26 that the county understands and agrees to all of the following
27 conditions:

28 (1) Commencing October 1, 2014, the county shall notify the
29 department in writing of its decision to participate in the Approved
30 Relative Caregiver Funding Option Program. Failure to make
31 timely notification, without good cause as determined by the
32 department, shall preclude the county from participating in the
33 program for the upcoming year. Annually thereafter, any county
34 not presently participating who elects to do so shall notify the
35 department in writing no later than October 1 of its decision to
36 participate for the upcoming calendar year.

37 (2) The county shall confirm that it will make per child per
38 month payments to all approved relative caregivers on behalf of
39 eligible children in the amount specified in subdivision (b) for the
40 duration of the participation of the county in this program.

1 (3) The county shall confirm that it will be solely responsible
2 to pay any additional costs needed to make all payments pursuant
3 to subdivision (b) if the state and federal funds allocated to the
4 Approved Relative Caregiver Funding Option Program pursuant
5 to paragraph (1) of subdivision (e) are insufficient to make all
6 eligible payments.

7 (d) (1) A county deciding to opt out of the Approved Relative
8 Caregiver Funding Option Program shall provide at least 120 days'
9 prior written notice of that decision to the department. Additionally,
10 the county shall provide at least 90 days' prior written notice to
11 the approved relative caregiver or caregivers informing them that
12 his or her per child per month payment will be reduced and the
13 date that the reduction will occur.

14 (2) The department shall presume all counties have opted out
15 of the Approved Relative Caregiver Funding Option Program if
16 the funding appropriated in subclause (II) of clause (i) of
17 subparagraph (B) of paragraph (1) of subdivision (e), including
18 any additional funds appropriated pursuant to clause (ii) of
19 subparagraph (B) of paragraph (1) of subdivision (e), is reduced,
20 unless a county notifies the department in writing of its intent to
21 opt in within 60 days of enactment of the state budget. The counties
22 shall provide at least 90 days' prior written notice to the approved
23 relative caregiver or caregivers informing them that his or her per
24 child per month payment will be reduced, and the date that the
25 reduction will occur.

26 (3) Any reduction in payments received by an approved relative
27 caregiver on behalf of a child under this section that results from
28 a decision by a county, including the presumed opt-out pursuant
29 to paragraph (2), to not participate in the Approved Relative
30 Caregiver Funding Option Program shall be exempt from state
31 hearing jurisdiction under Section 10950.

32 (e) (1) The following funding shall be used for the Approved
33 Relative Caregiver Funding Option Program:

34 (A) The applicable regional per-child CalWORKs grant.

35 (B) (i) General Fund resources that do not count toward the
36 state's maintenance of effort requirements under Section
37 609(a)(7)(B)(i) of Title 42 of the United States Code. For this
38 purpose, the following money is hereby appropriated:

1 (I) The sum of thirty million dollars (\$30,000,000) from the
2 General Fund for the period January 1, 2015 through December
3 31, 2015.

4 (II) The sum of thirty million dollars (\$30,000,000) from the
5 General Fund in each calendar year thereafter, as cumulatively
6 adjusted annually by the California Necessities Index used for each
7 May Revision of the Governor's Budget, to be used in each
8 respective calendar year.

9 (ii) To the extent that the appropriation made in subclause (I)
10 is insufficient to fully fund the base caseload of approved relative
11 caregivers as of July 1, 2014, for the period of time described in
12 subclause (I), as jointly determined by the department and the
13 County Welfare Directors' Association and approved by the
14 Department of Finance on or before October 1, 2015, the amounts
15 specified in subclauses (I) and (II) shall be increased in the
16 respective amounts necessary to fully fund that base caseload.
17 Thereafter, the adjusted amount of subclause (II), and the other
18 terms of that provision, including an annual California Necessities
19 Index adjustment to its amount, shall apply.

20 (C) County funds only to the extent required under paragraph
21 (3) of subdivision (c).

22 (D) This section is intended to appropriate the funding necessary
23 to fully fund the base caseload of approved relative caregivers,
24 defined as the number of approved relative caregivers caring for
25 a child who is not eligible to receive AFDC-FC payments, as of
26 July 1, 2014.

27 (2) Funds available pursuant to subparagraphs (A) and (B) of
28 paragraph (1) shall be allocated to participating counties
29 proportionate to the number of their approved relative caregiver
30 placements, using a methodology and timing developed by the
31 department, following consultation with county human services
32 agencies and their representatives.

33 (3) Notwithstanding subdivision (c), if in any calendar year the
34 entire amount of funding appropriated by the state for the Approved
35 Relative Caregiver Funding Option Program has not been fully
36 allocated to or utilized by counties, a county that has paid any
37 funds pursuant to subparagraph (C) of paragraph (1) of subdivision
38 (e) may request reimbursement for those funds from the
39 department. The authority of the department to approve the requests
40 shall be limited by the amount of available unallocated funds.

1 (f) An approved relative caregiver receiving payments on behalf
2 of a child pursuant to this section shall not be eligible to receive
3 additional CalWORKs payments on behalf of the same child under
4 Section 11450.

5 (g) To the extent permitted by federal law, payments received
6 by the approved relative caregiver from the Approved Relative
7 Caregiver Funding Option Program shall not be considered income
8 for the purpose of determining other public benefits.

9 (h) Prior to referral of any individual or recipient, or that
10 person's case, to the local child support agency for child support
11 services pursuant to Section 17415 of the Family Code, the county
12 human services agency shall determine if an applicant or recipient
13 has good cause for noncooperation, as set forth in Section
14 11477.04. If the applicant or recipient claims good cause exception
15 at any subsequent time to the county human services agency or
16 the local child support agency, the local child support agency shall
17 suspend child support services until the county social services
18 agency determines the good cause claim, as set forth in Section
19 11477.04. If good cause is determined to exist, the local child
20 support agency shall suspend child support services until the
21 applicant or recipient requests their resumption, and shall take
22 other measures that are necessary to protect the applicant or
23 recipient and the children. If the applicant or recipient is the parent
24 of the child for whom aid is sought and the parent is found to have
25 not cooperated without good cause as provided in Section
26 11477.04, the applicant's or recipient's family grant shall be
27 reduced by 25 percent for the time the failure to cooperate lasts.

28 (i) Consistent with Section 17552 of the Family Code, if aid is
29 paid under this chapter on behalf of a child who is under the
30 jurisdiction of the juvenile court and whose parent or guardian is
31 receiving reunification services, the county human services agency
32 shall determine, prior to referral of the case to the local child
33 support agency for child support services, whether the referral is
34 in the best interest of the child, taking into account both of the
35 following:

36 (1) Whether the payment of support by the parent will pose a
37 barrier to the proposed reunification in that the payment of support
38 will compromise the parent's ability to meet the requirements of
39 the parent's reunification plan.

1 (2) Whether the payment of support by the parent will pose a
2 barrier to the proposed reunification in that the payment of support
3 will compromise the parent's current or future ability to meet the
4 financial needs of the child.

5 SEC. 9. Section 11462.04 of the Welfare and Institutions Code
6 is amended to read:

7 11462.04. (a) Notwithstanding any other law, no new group
8 home rate or change to an existing rate shall be established pursuant
9 to Section 11462. An application shall not be accepted or processed
10 for any of the following:

11 (1) A new program.

12 (2) A new provider.

13 (3) A program change, such as a rate classification level (RCL)
14 increase.

15 (4) A program capacity increase.

16 (5) A program reinstatement.

17 (b) Notwithstanding subdivision (a), the department may grant
18 exceptions as appropriate on a case-by-case basis, based upon a
19 written request and supporting documentation provided by county
20 placing agencies, including county welfare or probation directors.

21 (c) For the 2012–13, 2013–14, and 2014–15 fiscal years,
22 notwithstanding subdivision (b), for any program below RCL 10,
23 the only exception that may be sought and granted pursuant to this
24 section is for an application requesting a program change, such as
25 an RCL increase. The authority to grant other exceptions does not
26 apply to programs below RCL 10 during these fiscal years.

27 SEC. 10. Section 11477 of the Welfare and Institutions Code,
28 as amended by Section 75 of Chapter 29 of the Statutes of 2014,
29 is amended to read:

30 11477. As a condition of eligibility for aid paid under this
31 chapter, each applicant or recipient shall do all of the following:

32 (a) (1) Do either of the following:

33 (i) For applications received before October 1, 2009, assign to
34 the county any rights to support from any other person the applicant
35 or recipient may have on his or her own behalf or on behalf of any
36 other family member for whom the applicant or recipient is
37 applying for or receiving aid, not exceeding the total amount of
38 cash assistance provided to the family under this chapter. Receipt
39 of public assistance under this chapter shall operate as an
40 assignment by operation of law. An assignment of support rights

1 to the county shall also constitute an assignment to the state. If
2 support rights are assigned pursuant to this subdivision, the
3 assignee may become an assignee of record by the local child
4 support agency or other public official filing with the court clerk
5 an affidavit showing that an assignment has been made or that
6 there has been an assignment by operation of law. This procedure
7 does not limit any other means by which the assignee may become
8 an assignee of record.

9 (ii) For applications received on or after October 1, 2009, assign
10 to the county any rights to support from any other person the
11 applicant or recipient may have on his or her own behalf, or on
12 behalf of any other family member for whom the applicant or
13 recipient is applying for or receiving aid. The assignment shall
14 apply only to support that accrues during the period of time that
15 the applicant is receiving assistance under this chapter, and shall
16 not exceed the total amount of cash assistance provided to the
17 family under this chapter. Receipt of public assistance under this
18 chapter shall operate as an assignment by operation of law. An
19 assignment of support rights to the county shall also constitute an
20 assignment to the state. If support rights are assigned pursuant to
21 this subdivision, the assignee may become an assignee of record
22 by the local child support agency or other public official filing
23 with the court clerk an affidavit showing that an assignment has
24 been made or that there has been an assignment by operation of
25 law. This procedure does not limit any other means by which the
26 assignee may become an assignee of record.

27 (2) Support that has been assigned pursuant to paragraph (1)
28 and that accrues while the family is receiving aid under this chapter
29 shall be permanently assigned until the entire amount of aid paid
30 has been reimbursed.

31 (3) If the federal government does not permit states to adopt the
32 same order of distribution for preassistance and postassistance
33 child support arrears that are assigned on or after October 1, 1998,
34 support arrears that accrue before the family receives aid under
35 this chapter that are assigned pursuant to this subdivision shall be
36 assigned as follows:

37 (A) Child support assigned prior to January 1, 1998, shall be
38 permanently assigned until aid is no longer received and the entire
39 amount of aid has been reimbursed.

1 (B) Child support assigned on or after January 1, 1998, but prior
2 to October 1, 2000, shall be temporarily assigned until aid under
3 this chapter is no longer received and the entire amount of aid paid
4 has been reimbursed or until October 1, 2000, whichever comes
5 first.

6 (C) On or after October 1, 2000, support assigned pursuant to
7 this subdivision that was not otherwise permanently assigned shall
8 be temporarily assigned to the county until aid is no longer
9 received.

10 (D) On or after October 1, 2000, support that was temporarily
11 assigned pursuant to this subdivision shall, when a payment is
12 received from the federal tax intercept program, be temporarily
13 assigned until the entire amount of aid paid has been reimbursed.

14 (4) If the federal government permits states to adopt the same
15 order of distribution for preassistance and postassistance child
16 support arrears, child support arrears shall be assigned, as follows:

17 (A) Child support assigned pursuant to this subdivision prior
18 to October 1, 1998, shall be assigned until aid under this chapter
19 is no longer received and the entire amount has been reimbursed.

20 (B) On or after October 1, 1998, child support assigned pursuant
21 to this subdivision that accrued before the family receives aid under
22 this chapter and that was not otherwise permanently assigned, shall
23 be temporarily assigned until aid under this chapter is no longer
24 received.

25 (C) On or after October 1, 1998, support that was temporarily
26 assigned pursuant to this subdivision shall, when a payment is
27 received from the federal tax intercept program, be temporarily
28 assigned until the entire amount of aid paid has been reimbursed.

29 (b) (1) Cooperate with the county welfare department and local
30 child support agency in establishing the paternity of a child of the
31 applicant or recipient born out of wedlock with respect to whom
32 aid is claimed, and in establishing, modifying, or enforcing a
33 support order with respect to a child of the individual for whom
34 aid is requested or obtained, unless the applicant or recipient
35 qualifies for a good cause exception pursuant to Section 11477.04.
36 The granting of aid shall not be delayed or denied if the applicant
37 is otherwise eligible, if the applicant completes the necessary forms
38 and agrees to cooperate with the local child support agency in
39 securing support and determining paternity, if applicable. The local
40 child support agency shall have staff available, in person or by

1 telephone, at all county welfare offices and shall conduct an
2 interview with each applicant to obtain information necessary to
3 establish paternity and establish, modify, or enforce a support order
4 at the time of the initial interview with the welfare office. The local
5 child support agency shall make the determination of cooperation.
6 If the applicant or recipient attests under penalty of perjury that
7 he or she cannot provide the information required by this
8 subdivision, the local child support agency shall make a finding
9 regarding whether the individual could reasonably be expected to
10 provide the information before the local child support agency
11 determines whether the individual is cooperating. In making the
12 finding, the local child support agency shall consider all of the
13 following:

- 14 (A) The age of the child for whom support is sought.
 - 15 (B) The circumstances surrounding the conception of the child.
 - 16 (C) The age or mental capacity of the parent or caretaker of the
17 child for whom aid is being sought.
 - 18 (D) The time that has elapsed since the parent or caretaker last
19 had contact with the alleged father or obligor.
- 20 (2) Cooperation includes all of the following:
- 21 (A) Providing the name of the alleged parent or obligor and
22 other information about that person if known to the applicant or
23 recipient, such as address, social security number, telephone
24 number, place of employment or school, and the names and
25 addresses of relatives or associates.
 - 26 (B) Appearing at interviews, hearings, and legal proceedings
27 provided the applicant or recipient is provided with reasonable
28 advance notice of the interview, hearing, or legal proceeding and
29 does not have good cause not to appear.
 - 30 (C) If paternity is at issue, submitting to genetic tests, including
31 genetic testing of the child, if necessary.
 - 32 (D) Providing any additional information known to or reasonably
33 obtainable by the applicant or recipient necessary to establish
34 paternity or to establish, modify, or enforce a child support order.
- 35 (3) A recipient or applicant shall not be required to sign a
36 voluntary declaration of paternity, as set forth in Chapter 3
37 (commencing with Section 7570) of Part 2 of Division 12 of the
38 Family Code, as a condition of cooperation.

1 (c) (1) This section shall not apply if all of the adults are
2 excluded from the assistance unit pursuant to Section 11251.3,
3 11454, or 11486.5.

4 (2) It is the intent of the Legislature that the regular receipt of
5 child support in the preceding reporting period be considered in
6 determining reasonably anticipated income for the following
7 reporting period.

8 (3) In accordance with Sections 11265.2 and 11265.46, if the
9 income of an assistance unit described in paragraph (1) includes
10 reasonably anticipated income derived from child support, the
11 amount established in Section 17504 of the Family Code and
12 Section 11475.3 of the Welfare and Institutions Code of any
13 amount of child support received each month shall not be
14 considered income or resources and shall not be deducted from
15 the amount of aid to which the assistance unit otherwise would be
16 eligible.

17 SEC. 11. Section 12300.4 of the Welfare and Institutions Code,
18 as added by Section 76 of Chapter 29 of the Statutes of 2014, is
19 amended to read:

20 12300.4. (a) Notwithstanding any other law, including, but
21 not limited to, Chapter 10 (commencing with Section 3500) of
22 Division 4 of Title 1 of the Government Code and Title 23
23 (commencing with Section 110000) of the Government Code, a
24 recipient who is authorized to receive in-home supportive services
25 pursuant to this article, or Section 14132.95, 14132.952, or
26 14132.956, administered by the State Department of Social
27 Services, or waiver personal care services pursuant to Section
28 14132.97, administered by the State Department of Health Care
29 Services, or any combination of these services, shall direct these
30 authorized services, and the authorized services shall be performed
31 by a provider or providers within a workweek and in a manner
32 that complies with the requirements of this section.

33 (b) (1) A workweek is defined as beginning at 12:00 a.m. on
34 Sunday and includes the next consecutive 168 hours, terminating
35 at 11:59 p.m. the following Saturday.

36 (2) A provider of services specified in subdivision (a) shall not
37 work a total number of hours within a workweek that exceeds 66,
38 as reduced by the net percentage defined by Sections 12301.02
39 and 12301.03, as applicable, and in accordance with subdivision

(d). The total number of hours worked within a workweek by a provider is defined as the sum of the following:

(A) All hours worked providing authorized services specified in subdivision (a).

(B) Travel time as defined in subdivision (f), only if federal financial participation is not available to compensate for that travel time. If federal financial participation is available for travel time as defined in subdivision (f), the travel time shall not be included in the calculation of the total weekly hours worked within a workweek.

(3) (A) If the authorized in-home supportive services of a recipient cannot be provided by a single provider as a result of the limitation specified in paragraph (2), it is the responsibility of the recipient to employ an additional provider or providers, as needed, to ensure his or her authorized services are provided within his or her total weekly authorized hours of services established pursuant to subdivision (b) of Section 12301.1.

(B) (i) *It is the intent of the Legislature that this section shall not result in reduced services authorized to recipients of waiver personal care services defined in subdivision (a).*

(ii) ~~The State Department of Health Care Services shall take all necessary and timely steps to ensure that work with and assist recipients receiving services pursuant to the Nursing Facility/Acute Hospital Waiver or the In-Home Operations Waiver who are at or near the their individual cost cap, as that term is used in the applicable waiver, do not lose services and are not forced to alter existing provider relationships~~ *waiver, to avoid a reduction in the recipient's services that may result because of increased overtime pay for providers, including providers. As part of this effort, the department shall consider allowing the recipient to exceed the individual cost cap, if appropriate. The department shall provide timely information to waiver recipients as to the steps that will be taken to implement this clause.*

(4) (A) A provider shall inform each of his or her recipients of the number of hours that the provider is available to work for that recipient, in accordance with this section.

(B) A recipient, his or her authorized representative, or any other entity, including any person or entity providing services pursuant to Section 14186.35, shall not authorize any provider to

1 work hours that exceed the applicable limitation or limitations of
2 this section.

3 (C) A recipient may authorize a provider to work hours in excess
4 of the recipient's weekly authorized hours established pursuant to
5 Section 12301.1 without notification of the county welfare
6 department, in accordance with both of the following:

7 (i) The authorization does not result in more than 40 hours of
8 authorized services per week being provided.

9 (ii) The authorization does not exceed the recipient's authorized
10 hours of monthly services pursuant to paragraph (1) of subdivision
11 (b) of Section 12301.1.

12 (5) For providers of in-home supportive services, the State
13 Department of Social Services or a county may terminate the
14 provider from providing services under the IHSS program if a
15 provider continues to violate the limitations of this section on
16 multiple occasions.

17 (c) Notwithstanding any other law, only federal law and
18 regulations regarding overtime compensation apply to providers
19 of services defined in subdivision (a).

20 (d) A provider of services defined in subdivision (a) is subject
21 to all of the following, as applicable to his or her situation:

22 (1) (A) A provider who works for one individual recipient of
23 those services shall not work a total number of hours within a
24 workweek that exceeds 66 hours, as reduced by the net percentage
25 defined by Sections 12301.02 and 12301.03, as applicable. In no
26 circumstance shall the provision of these services by that provider
27 to the individual recipient exceed the total weekly hours of the
28 services authorized to that recipient, except as additionally
29 authorized pursuant to subparagraph (C) of paragraph (4) of
30 subdivision (b). If multiple providers serve the same recipient, it
31 shall continue to be the responsibility of that recipient or his or
32 her authorized representative to schedule the work of his or her
33 providers to ensure the authorized services of the recipient are
34 provided in accordance with this section.

35 (B) When a recipient's weekly authorized hours are adjusted
36 pursuant to subparagraph (C) of paragraph (1) of subdivision (b)
37 of Section 12301.1 and exceed 66 hours, as reduced by the net
38 percentage defined by Sections 12301.02 and 12301.03, as
39 applicable, and at the time of adjustment the recipient currently
40 receives all authorized hours of service from one provider, that

1 provider shall be deemed authorized to work the recipient's
2 county-approved adjusted hours for that week, but only if the
3 additional hours of work, based on the adjustment, do not exceed
4 the total number of hours worked that are compensable at an
5 overtime pay rate that the provider would have been authorized to
6 work in that month if the weekly hours had not been adjusted.

7 (2) A provider of in-home supportive services described in
8 subdivision (a) who serves multiple recipients is not authorized
9 to, and shall not, work more than 66 total hours in a workweek,
10 as reduced by the net percentage defined by Sections 12301.02
11 and 12301.03, as applicable, regardless of the number of recipients
12 for whom the provider provides services authorized by subdivision
13 (a). Providers are subject to the limits of each recipient's total
14 authorized weekly hours of in-home supportive services described
15 in subdivision (a), except as additionally authorized pursuant to
16 subparagraph (C) of paragraph (4) of subdivision (b).

17 (e) Recipients and providers shall be informed of the limitations
18 and requirements contained in this section, through notices at
19 intervals and on forms as determined by the State Department of
20 Social Services or the State Department of Health Care Services,
21 as applicable, following consultation with stakeholders.

22 (f) (1) A provider of services described in subdivision (a) shall
23 not engage in travel time in excess of seven hours per week. For
24 the purposes of this subdivision, "travel time" means time spent
25 traveling directly from a location where authorized services
26 specified in subdivision (a) are provided to one recipient, to another
27 location where authorized services are to be provided to another
28 recipient. A provider shall coordinate hours of work with his or
29 her recipients to comply with this section.

30 (2) The hourly wage to compensate a provider for travel time
31 described in this subdivision when the travel is between two
32 counties shall be the hourly wage of the destination county.

33 (3) Travel time, and compensation for that travel time, between
34 a recipient of authorized in-home supportive services specified in
35 subdivision (a) and a recipient of authorized waiver personal care
36 services specified in subdivision (a), shall be attributed to the
37 program authorizing services for the recipient to whom the provider
38 is traveling.

1 (4) Hours spent by a provider while engaged in travel time shall
2 not be deducted from the authorized hours of service of any
3 recipient of services specified in subdivision (a).

4 (5) The State Department of Social Services and the State
5 Department of Health Care Services shall issue guidance and
6 processes for travel time between recipients that will assist the
7 provider and recipient to comply with this subdivision. Each county
8 shall provide technical assistance to providers and recipients, as
9 necessary, to implement this subdivision.

10 (g) A provider of authorized in-home supportive services
11 specified in subdivision (a) shall timely submit, deliver, or mail,
12 verified by postmark or request for delivery, a signed payroll
13 timesheet within two weeks after the end of each bimonthly payroll
14 period. Notwithstanding any other law, a provider who submits
15 an untimely payroll timesheet for providing authorized in-home
16 supportive services specified in subdivision (a) shall be paid by
17 the state within 30 days of the receipt of the signed payroll
18 timesheet.

19 (h) This section does not apply to a contract entered into
20 pursuant to Section 12302 or 12302.6 for authorized in-home
21 supportive services. Contract rates negotiated pursuant to Section
22 12302 or 12302.6 shall be based on costs consistent with a 40-hour
23 workweek.

24 (i) The state and counties are immune from any liability resulting
25 from implementation of this section.

26 (j) Any action authorized under this section that is implemented
27 in a program authorized pursuant to Section 14132.95, 14132.97,
28 14132.952, or 14132.956 shall be compliant with federal Medicaid
29 requirements, as determined by the State Department of Health
30 Care Services.

31 (k) Notwithstanding the rulemaking provisions of the
32 Administrative Procedure Act (Chapter 3.5 (commencing with
33 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
34 Code), the State Department of Social Services and the State
35 Department of Health Care Services may implement, interpret, or
36 make specific this section by means of all-county letters or similar
37 instructions, without taking any regulatory action.

38 (l) (1) This section shall become operative only when the
39 regulatory amendments made by RIN 1235-AA05 to Part 552 of
40 Title 29 of the Code of Federal Regulations are deemed effective,

1 either on the date specified in RIN 1235-AA05 or at a later date
2 specified by the Federal Department of Labor, whichever is later.

3 (2) If the regulatory amendments described in paragraph (1)
4 become only partially effective by the date specified in paragraph
5 (1), this section shall become operative only for those persons for
6 whom federal financial participation is available as of that date.

7 SEC. 12. The Legislature finds and declares that the number
8 of unaccompanied, undocumented minors in California has surged
9 in recent months, often overwhelming the agencies and
10 organizations that care for these minors and help to determine their
11 immigration status. Legal representation for unaccompanied
12 undocumented minors in California is important to assist these
13 minors in navigating through federal immigration proceedings as
14 well as related state court actions.

15 SEC. 13. Chapter 5.6 (commencing with Section 13300) is
16 added to Part 3 of Division 9 of the Welfare and Institutions Code,
17 to read:

18
19 CHAPTER 5.6. LEGAL COUNSEL FOR UNACCOMPANIED
20 UNDOCUMENTED MINORS
21

22 13300. (a) Subject to the availability of funding in the act that
23 added this chapter or the annual Budget Act, the department shall
24 contract, as described in Section 13301, with qualified nonprofit
25 legal services organizations to provide legal services to
26 unaccompanied undocumented minors who are transferred to the
27 care and custody of the federal Office of Refugee Resettlement
28 and who are present in this state.

29 (b) Legal services provided in accordance with subdivision (a)
30 shall be for the sole purpose of providing legal representation to
31 unaccompanied undocumented minors who are in the physical
32 custody of the federal Office of Refugee Resettlement or who are
33 residing with a family member or other sponsor.

34 (c) For purposes of this chapter, the term “unaccompanied
35 undocumented minors” means unaccompanied alien children as
36 defined in Section 279(g)(2) of Title 6 of the United States Code.

37 (d) For purposes of this chapter, the term “legal services”
38 includes culturally and linguistically appropriate services provided
39 by attorneys, paralegals, interpreters and other support staff for

1 state court proceedings, federal immigration proceedings, and any
2 appeals arising from those proceedings.

3 13301. Contracts awarded pursuant to Section 13300 shall
4 fulfill all of the following:

5 (a) Be executed only with nonprofit legal services organizations
6 that meet all of the following requirements:

7 (1) Have at least three years of experience handling asylum,
8 T-Visa, U-Visa, or special immigrant juvenile status cases and
9 have represented at least 25 individuals in these matters.

10 (2) Have experience in representing individuals in removal
11 proceedings and asylum applications.

12 (3) Have conducted trainings on these issues for practitioners
13 beyond their staff.

14 (4) Have experience guiding and supervising the work of
15 attorneys whom themselves do not regularly participate in this
16 area of the law but nevertheless work pro bono on the types of
17 cases described in paragraph (1).

18 (5) Are accredited by the Board of Immigration Appeals under
19 the United States Department of Justice's Executive Office for
20 Immigration Review or meet the requirements to receive funding
21 from the Trust Fund Program administered by the State Bar of
22 California.

23 (b) Provide for legal services to unaccompanied undocumented
24 minors on a fee-per-case basis, as determined by the department,
25 which shall include all administrative and supervisory costs and
26 court fees.

27 (c) Require reporting, monitoring, or audits of services provided,
28 as determined by the department.

29 (d) Require contractors to coordinate efforts with the federal
30 Office of Refugee Resettlement Legal Access Project in order to
31 respond to and assist or represent unaccompanied undocumented
32 minors who could benefit from the services provided under this
33 chapter.

34 (e) Require contractors to maintain adequate legal malpractice
35 insurance and to indemnify and hold the state harmless from any
36 claims that arise from the legal services provided pursuant to this
37 chapter.

38 13302. Notwithstanding any other law:

39 (a) Contracts awarded pursuant to this chapter shall be exempt
40 from the personal services contracting requirements of Article 4

1 (commencing with Section 19130) of Chapter 5 of Part 2 of
2 Division 5 of Title 2 of the Government Code.

3 (b) Contracts awarded pursuant to this chapter shall be exempt
4 from the Public Contract Code and the State Contracting Manual,
5 and shall not be subject to the approval of the Department of
6 General Services.

7 (c) The client information and records of legal services provided
8 pursuant to this chapter shall be subject to the requirements of
9 Section 10850 and shall be exempt from inspection under the
10 California Public Records Act (Chapter 3.5 (commencing with
11 Section 6250) of Division 7 of Part 1 of the Government Code).

12 (d) The state shall be immune from any liability resulting from
13 the implementation of this chapter.

14 SEC. 14. Section 88 of Chapter 29 of the Statutes of 2014 is
15 amended to read:

16 SEC. 88. (a) Notwithstanding the rulemaking provisions of
17 the Administrative Procedure Act (Chapter 3.5 (commencing with
18 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
19 Code), the department may implement and administer the changes
20 made by Sections 1, 64, 67, 68, 69, 70, 72, 73, 74, 75, 77, 79, 80,
21 81, 82, and 83 of Chapter 29 of the Statutes of 2014 through
22 all-county letters or similar instructions until regulations are
23 adopted.

24 (b) The department shall adopt emergency regulations
25 implementing these provisions no later than January 1, 2016. The
26 department may readopt any emergency regulation authorized by
27 this section that is the same as, or substantially equivalent to, any
28 emergency regulation previously adopted pursuant to this section.
29 The initial adoption of regulations pursuant to this section and one
30 readoption of emergency regulations shall be deemed to be an
31 emergency and necessary for the immediate preservation of the
32 public peace, health, safety, or general welfare. Initial emergency
33 regulations and the one readoption of emergency regulations
34 authorized by this section shall be exempt from review by the
35 Office of Administrative Law. The initial emergency regulations
36 and the one readoption of emergency regulations authorized by
37 this section shall be submitted to the Office of Administrative Law
38 for filing with the Secretary of State and each shall remain in effect
39 for no more than 180 days, by which time final regulations shall
40 be adopted.

1 SEC. 15. The provisions of this act are severable. If any
2 provision of this act or its application is held invalid, that invalidity
3 shall not affect other provisions or applications that can be given
4 effect without the invalid provision or application.

5 SEC. 16. The Legislature finds and declares that Section 1 of
6 this act, which adds Chapter 7 (commencing with Section 155) to
7 Part 1 of Title 1 to the Code of Civil Procedure, ~~imposes and~~
8 *Section 13 of this act, which adds Chapter 5.6 (commencing with*
9 *Section 13300) to Part 3 of Division 9 of the Welfare and*
10 *Institutions Code, impose* a limitation on the public's right of access
11 to the meetings of public bodies or the writings of public officials
12 and agencies within the meaning of Section 3 of Article I of the
13 California Constitution. Pursuant to that constitutional provision,
14 the Legislature makes the following findings to demonstrate the
15 interest protected by this limitation and the need for protecting
16 that interest:

17 ~~It~~

18 (a) *In order to protect the privacy interests of those minors who*
19 *are seeking special immigrant juvenile status, it is essential to*
20 *maintain the confidentiality of the records described in Section 1*
21 *of this act.*

22 (b) *In order to protect the privacy interests of unaccompanied*
23 *undocumented minors and to protect records covered by the*
24 *attorney client privilege, it is essential to maintain the*
25 *confidentiality of the records described in Section 13 of this act.*

26 SEC. 17. Section 7.5 of this bill incorporates amendments to
27 Section 1569.682 of the Health and Safety Code proposed by both
28 this bill and Assembly Bill 1899. It shall only become operative
29 if (1) both bills are enacted and become effective on or before
30 January 1, 2015, but this bill becomes operative first, (2) each bill
31 amends Section 1569.682 of the Health and Safety Code, and (3)
32 this bill is enacted after Assembly Bill 1899, in which case Section
33 1569.682 of the Health and Safety Code, as amended by Section
34 7 of this bill, shall remain operative only until the operative date
35 of Assembly Bill 1899, at which time Section 7.5 of this bill shall
36 become operative.

37 SEC. 18. The amount of one million six hundred eighty-six
38 thousand dollars (\$1,686,000) is hereby appropriated to the State
39 Department of Social Services in augmentation of Item
40 5180-151-0001 of Section 2.00 of the Budget Act of 2014, for

1 Program 25.30 for the Commercially Sexually Exploited Children
2 Program, and the total amount appropriated in Item 5180-153-0001
3 of Section 2.00 of the Budget Act of 2014 is hereby reduced by
4 the amount of one million six hundred eighty-six thousand dollars
5 (\$1,686,000) to offset that appropriation.

6 SEC. 19. No appropriation pursuant to Section 15200 of the
7 Welfare and Institutions Code is made for purposes of this act.

8 SEC. 20. This act is a bill providing for appropriations related
9 to the Budget Bill within the meaning of subdivision (e) of Section
10 12 of Article IV of the California Constitution, has been identified
11 as related to the budget in the Budget Bill, and shall take effect
12 immediately.